California Journal
The Monthly Analysis of State Government and Politics
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TEACHER QUALITY: GOING DOWN

Duke's plan to beat the Demos

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The Monthly Analysis of State Government and Politics

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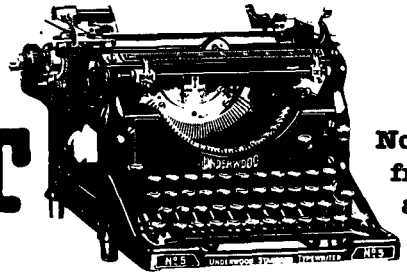
UP FRONT



Notes and Items from Contributors and the Journal Staff.

Dennis Hart, Sacramento County welfare director, is becoming a national celebrity because of a word that he doesn't like. The word is "poorhouse," and because of it Hart has appeared on the national news and been written about in a series of national and local articles. (See "Off to the poorhouse," *CJ*, January 1983) But, says Hart, the county dormitory for welfare recipients is not a poorhouse, a place designed to get poor people out of the way. It is a place for the destitute to receive food and shelter (instead of cash grants) while they look for work. Hart calls it "an emergency residence facility."

(A.G. Block, Sacramento)

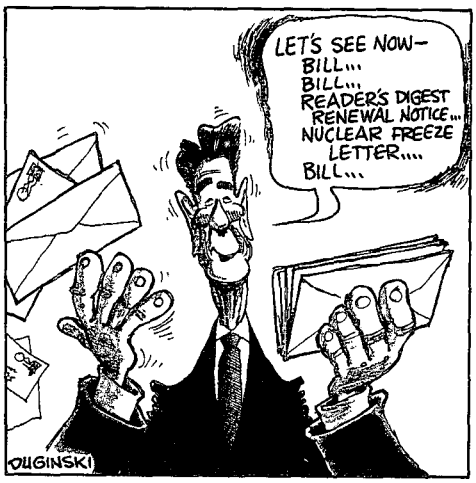
Republican Senator Ed Davis of Canoga Park, author of a bill to abolish one of the privileges enjoyed by legislators — virtual immunity from civil lawsuits — presented his measure to the Senate Judiciary Committee recently and was asked to name some lawmakers who had abused the privilege. Diplomatically, Davis declined to point a finger at colleagues. But, he said, the March issue of the *Journal* carried an article about the practice, including examples. Such is the power of the press — or at least of this press — that reaction was instantaneous: On a 3-2 vote, they killed Davis' bill.

Stu Mollrich, the Los Angeles campaign consultant who is heading the direct mail effort to qualify Assemblyman Don Sebastiani's reapportionment plan for the ballot, says he plans to make a special effort for signatures in some of the more artfully drawn congressional districts (some say gerrymandered) created by Congressman Phil Burton and Michael Berman.

Assemblyman Tom Hayden says it's the first book ever written about him. Authored by John H. Bunzel, former president of San Jose State University and a research fellow now at the Hoover Institution, the book is called "New force on the Left: Tom Hayden and the campaign against corporate America." It's a short paperback that covers Hayden's career from student radical to mainstream politician and ends by asking whether the new Tom Hayden is the real Tom Hayden. Hayden says Bunzel may not know because Bunzel never talked to him.

The key liaison in getting the California Freeze Initiative personally delivered to President Reagan in the Oval Office was the president's daughter, Patti Davis.

The 30-year-old actress learned that



Freeze Chairman Harold Willens was frustrated because the president had turned down Alan Cranston and Jerry Brown, both of whom had requested an appointment to present the "letter" from the voters of California. Davis immediately picked up the telephone, dialed a memorized number and said, "This is Patti, may I speak to my father?"

For the next several minutes, she persuasively argued with her father why he could "benefit" from a meeting with Willens and warned him that if he wouldn't receive the letter, the nuclear-freeze proponents would make that known in a noisy fashion.

"No, Daddy, he's not going to send it in the mail," she said at one time during the conversation which finally concluded with the president telling Patti to tell Willens to call Mike Deaver for an appointment.

Cliff Berg isn't really leaving his place at the right hand of Senate President pro Tem Dave Roberti. True, Berg has been appointed executive officer of the Senate Rules Committee, but he'll continue many of his old duties as Roberti's chief of staff. And, he says, he'll do it all for the same salary, about $65,000 a year. Initially, Roberti offered the Rules Committee job to Jim Dantona, his top assistant in Los Angeles. But for family and other reasons (he may want to run for the Assembly some day), Dantona chose to remain in the south. Mel Assagai, Roberti's press secretary, will assume some of Berg's old duties. As a beginning right-hand man, he'll get nearly $48,000 a year.

Elisabeth Kersten, a former Assembly employee who was once on the staff of Speaker Willie Brown, is the new director of the Senate Office of Research at $60,828 a year. She succeeds Nancy Burt, who left for a seat on the Public Employment Relations Board.

Although local chambers of commerce aren't boasting about it, it's nevertheless true released convicts like some areas of California better than others. San Luis Obispo County, for instance, is everybody's favorite. El Dorado County is much disliked.

Prison officials report that many parolees tend to remain near the prisons from which they have just been released, probably because their families moved there during the prisoner's time behind bars. But that isn't always the case. Shasta County is popular and has no prison within miles.

Stirred largely by protests from Sacramento County (one of the popular areas, but not among the top five) the State Department of Corrections now requires that most parolees return to the counties from which they came, unless there is good reason — like a job — to go elsewhere. Also, a new law took effect at the start of this year requiring the same thing. As a result, says the department, the heavy concentrations of parolees in some areas are being reduced.

Meanwhile, here is a list of the five

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most popular and unpopular counties, compiled from Corrections Department statistics for 1977 through 1981, the latest figures available. The percentage alongside each name indicates how many more (or less) parolees the county received than it sent in.

Popular:	Unpopular:
San Luis Obispo 96%	El Dorado 90%
Shasta 74%	Madera 89%
Sonoma 68%	Santa Cruz 87%
Lassen 62%	Kings 86%
Monterey 28%	Glenn 85%

(Doug Murphy, Sacramento)

Assembly Speaker Willie Brown didn't get to stay in that top-floor apartment of the fashionable building across from Capitol Park, in part at least because of Treasurer Jess Unruh's unwillingness to take some heat. Brown, who had been granted the apartment by its former occupant, Jerry Brown, agreed to leave after a Sacramento attorney contended in a court suit that the speaker should have had to put his name on the waiting list like all the others who want a place in the five-story, government-owned building. But during the court discussions, it was suggested that Brown could stay if Unruh, who also lives there, would move into the other top-floor apartment, thereby putting the two officials on the same floor and creating a security area that the court could plausibly set aside for official use. But the top-floor apartments are exceptionally hot in the summertime and Unruh doesn't relish such heat. Also, who would have paid his moving expenses to the top floor?

Ronald Reagan, Jerry Brown, Evelle Younger, Wilson Riles, Ed Reinecke, William Bennett and Houston Flournoy have something new in common beside their service as state constitutional officials. They each lost a wad — a great wad — of pension benefits February 16th when the California Supreme Court refused to hear former Attorney General Younger's appeal from a lower court decision denying him the lucrative "catchup" feature of the Legislators' Retirement System Super Escalator formula.

Winning the "catchup" would have given Younger a $71,588 pension this year, compared to incumbent Attorney General John Van de Kamp's salary of $47,500. (See "Why Pat Brown's pension is higher than Jerry's salary," *CJ*, September 1982.)

Instead, Younger will receive $27,105 under the hybrid formula paid him since his retirement in 1979. Reagan and the other five are not named in the suit, but they served in years that give them essentially the same pension rights as Younger. Reagan will get $26,678 this year instead of the $49,128 that would have come with a Younger victory. Riles, who retired in January after losing his bid for a fourth term as state superintendent of public instruction, gets a starting pension of $16,185 instead of $60,969. Brown, Reinecke, Bennett and Flournoy suffered even more devastating cuts with the loss of the "catchup" benefit, which boosts beginning pensions to compensate for inflation from 1954 to the date benefits begin. But their losses can't be translated to dollar amounts until they retire.

(Jackson Rannells, San Francisco)

Charles Imbrecht, newly named chairman of the Energy Commission, indicates that he has big changes in mind. The former assemblyman, now Governor Deukmejian's chief adviser on energy, says he may seek a law to change the five-member commission into an executive department or into an agency with a strong chairman, like the Air Resources Board. He expects to make recommendations to Deukmejian within 60 days, after a new task force — reportable to him — comes in with recommendations. Meanwhile, Imbrecht says he wants to find out where the tensions lie among his colleagues who have been squabbling lately in public. Much of the problem arose when Commissioner Geoffrey Commons complained that he is being denied good committee assignments, making him a "second-class commissioner." Former chairman Rusty Schweikart called it a "wild accusation" and Commissioner Karen Edson said Commons' complaints would discredit the whole commission.

(A.G. Block, Sacramento)

Our apologies to James Hayes, the former assemblyman and Los Angeles County supervisor. Because of an editing error, he was "the late" James Hayes in last month's article on legislative immunity. Actually, he is chairman of the board of Solec International, a Hawthorne firm that makes photovoltaic cells, solar panels and similar devices.

There is virtually no GOP activity in California for 1984 candidates other than Ronald Reagan, although Vice President George Bush, Senator Howard Baker and Congressman Jack Kemp all have good and wealthy friends out here who stand ready should the unlikely happen.

"In the month of January, all the potentials held meetings in Washington," says GOP political strategist and close Reagan friend Stuart Spencer. "There was a lot of speculation then that Reagan might not run again. I don't sense any activity going on out here now because most of us think he will run again. He should decide by June or July."

Bush has powerful California friends like Hollywood producer Jerry Weintraub; Kemp has USC economist Arthur Laffer and others, and Baker is said to have a strong relationship with Los Angeles industrialist David Murdock. Baker, however, might have some fast mending to do should Reagan not run. According to the man who was one of his top fund-raisers three years ago, San Fernando Valley businessman Marshall Ezralow, Baker gave back little to this state and his friends here.

"I personally will not support him again, and I think others feel the same," says Ezralow. "A year after the campaign, we wanted him for something out here and was told he was 'too busy.' I think he lost a lot of his following."

(Michele Willens, Los Angeles)

East Los Angeles Democrat Gloria Molina has been celebrated since last November as the first Latina ever elected to the state Assembly. Now, it seems, she enjoys another distinction as well. She was the only candidate last year to have beaten an opponent whose campaign was handled by the fearsome Berman-D'Agostino duo. At least, that's what Michael Berman says. According to Berman (brother of the congressman), he and Carl D'Agostino (who do business as BAD Campaigns) handled 14 races in 1982 and lost only the one against Molina. Their candidate in that June primary was Richard Polanco, a former aide to former Governor Jerry Brown.

Molina's managers, Pat Bond and Fred Register, were recommended by Molina's old friend and campaign supporter, Sandra Serrano Sewell. Sewell says they have a "special sensitivity" for female and minority candidates.

In any case, the 35-year old Molina is safely elected now and as vice chair of the Labor and Employment Committee is able to pursue her interest in job programs and child care centers. Her name has surfaced in connection with accusations against her former boss, Senator Art Torres, involving false residency listing on his voter registration forms. But Los Angeles County Deputy District Attorney Donna Bracke says that Molina, whose address was one of those listed, is not involved in the investigation.

(Joan Reiss, Sacramento)

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Declining teacher quality: public schools' toughest problem

By MICHAEL W. KIRST and JAMES W. GUTHRIE

California public schools — beset by fiscal woes and constant complaints of poor student achievement — are now confronted by the most threatening problem of all: The quality of teachers is clearly going down. The problem cannot be ignored. Although public schools may survive in dilapidated buildings and even through racial disputes, they cannot continue as they are if the public becomes convinced that the teacher force itself is incapable of educating a child. When that occurs, private education will become a routine goal for the middle class, along with backyard barbecues and shiny new cars.

The evidence of deterioration is everywhere:

- **Over the last decade,** the Scholastic Aptitude Test (SAT) scores for prospective teachers have fallen about twice as fast as the average SAT decline. (The average decline is another unhappy story.)
- **A study of students** at more than 1,000 colleges, covering 19 subject majors, showed that potential teachers ranked 17th in math and 14th in English.
- **Several fine institutions,** like Reed College, Yale, Harvard and Duke, have dropped their teacher training programs, meaning that a higher proportion of potential teachers are being trained at less selective colleges each year.
- **Here in California** last January, state officials reported a 35 percent failure rate on a new examination for prospective teachers, the California Basic Educational Skills test. The test is supposed to measure minimum abilities in reading, writing and mathematics. (These results probably will improve somewhat as potential teachers and teacher training institutions begin cram courses and other programs to prepare for the tests.)
- **Moreover, those who hire** teachers tend to take the worst from this already mediocre pool of applicants. According to a study sponsored by the federal government's National Institute of Education, those persons not hired scored consistently higher in tests of reading and vocabulary competence than those who got jobs. The same study showed that one-third of applicants had failed a particular test of basic skills, but fully half of those hired were among those who failed. Although the study offered no explanations for its findings, a partial cause may be requirements that school districts hire minorities for bilingual and other special programs. This theory is supported by evidence from the state's basic skills test. While the overall failure rate was 35 percent, the rate for blacks was 77 percent and for Hispanics 65 percent.
- **Those who are leaving** teaching are generally the young and the bright. By the fifth to the seventh year, only about half of those initially hired are still teaching. In other words, half of the new hires of five to seven years ago have left. Who were they? Researchers have found that teachers scoring higher on the National Teachers Examination (NTE) are almost twice as likely to leave teaching than all others with similar amounts of experience. In California, close to 8 percent of the K-14 teaching force leaves the schools each year, although in some fields (mathematics and English) the figure may go to 11 percent or more.

Not surprisingly, many of those who remain on the job are dissatisfied. According to a 1981 survey by the National Education Association (NEA), 36 percent of teachers said they probably or certainly would not choose the career if they were making the decision today.

Why the decline in teacher quality? Perhaps the most important reason is the vast enlargement of job opportunities for able young women. High-scoring women have disappeared from the school employers' personnel files over the past 15 years because teaching — like nursing, librarianship and social work — is no longer one of the few places for them to go. Management, law, medicine — the opportunities today are everywhere. The bright young woman who taught English 15 years ago is now anchoring the evening news. The statistics bear this out. In North Carolina, for example, the proportion of men scoring well on the NTE has remained fairly stable, but the proportion of women scoring well has dropped sharply. Those results were confirmed by a national study.

In 1966, three times as many women majored in education as in business. Only 11 years later, one-third more women majored in education as in business, for a net loss of more than 100,000 women to education in that single year. In other words, sexism once helped preserve quality in the public schools.

Michael W. Kirst, a professor of education at Stanford University, is a past president of the State Board of Education. James W. Guthrie is a professor of Education at the University of California, Berkeley.

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New opportunities for women affect teacher quality in another way. Women who dropped out of teaching to rear families once constituted a vast reserve army of teachers that could be called up as their children became grown. But today, about 70 percent of women between the ages of 25 and 65 are already employed, meaning that the army no longer exists.

Another important reason for the decline in teacher quality is the nature of the job itself. Talented persons are not likely to choose a career that is conducted in an environment that is (or is perceived to be) stressful and sometimes violent. In addition, public school teaching is now considered of low status among the college-educated who are potential teachers or the parents of potential teachers. According to some evidence, public school teaching has lost more occupational prestige in the past 15 to 20 years than any other occupation ranked.

Sliding salaries

The poverty image and poverty mentality of California public schools — engendered by fiscal shortages, enrollment dips, taxpayers' revolts and public disaffection — correspond to real cutbacks which render teaching even more unpalatable. Programs, staff and salaries have been curtailed. And the cutbacks are not over. In this post-Proposition 13 era, financial support of the schools resides mainly with the state, which now provides two-thirds of all funds for K-12 education. This year, for the first time in many years, the public school system received no increase in state general purpose funds. Overall, funds for California K-12 education from all sources increased only 2½ percent, despite a much higher inflation rate. The uncertainty and despair inherent in this situation demoralize people in the system and dissuade others from joining it.

The school as workplace also discourages teachers and would-be teachers. Unlike college professors, school teachers do not control the curriculum; they lack a collegial relationship with other teachers and administrators; and they often cannot experience themselves as professionals in their work setting. The regimentation and hierarchy of school organizations contribute to teacher "burnout" and serve to warn off prospective teachers.

Over the last decade, teacher salaries have slid below most other professions requiring a college degree, both in absolute terms and in real purchasing power. The average beginning teacher salary in California is $13,687, compared to $20,000 or more for newly employed college graduates in many industries. In fact, beginning salaries for teachers with a B.A. degree were lower than those in any other profession as reported by the Bureau of Labor Statistics, the Endicott reports or the College Placement Council Reports.

Once on the job, teachers can expect to attain only about twice the entering salary, a flat salary structure in comparison to other fields. The salary gap widens over time: At 10 years, the typical school salary (based on a teaching credential) is close to $10,000 less than an estimated industry salary (based on a master's degree); at 20 years, the gap is $20,000; above 20 years, the gap yawns to more than $25,000. Even for teachers with advanced degrees, the

States Requiring Testing for Certification

Twenty states now require, or will require, that applicants for teacher certification be tested, but the testing means different things in different states. Some, like California, test basic skills: reading, writing, mathematics. Others test subject matter or professional teaching skills; still others test a combination of these. Some states test prospective teachers before entrance to teacher-preparatory programs; others (like California) test after graduation. California is the first state to test would-be instructional aides in basic skills. Several states have tried to pass bills for testing of teachers on the job, for purposes of retention or salary decisions. Such testing — vigorously opposed by both major teachers' unions — has not passed in any state.

State	Authority	Year Enacted	Year Effective	Test Used	Areas to be Tested
Alabama	SBE[1]	1980	1981	State	Professional knowledge/subject matter areas
Arizona	SBE/Legislature	1980	1980	State	Basic skills/professional knowledge
Arkansas	Legislature	1979	1983	NTE[2]	Commons and area examinations[3]
California	Legislature	1981	1982	State	Basic skills
Colorado	Legislature	1981	1983	State	Basic skills
Connecticut	SBE	1982	1985	State	Professional knowledge/subject matter areas
Delaware	SBE	1982	1983	State	Basic skills
Florida	Legislature	1978	1980	State	Basic skills/professional knowledge
Georgia	SBE	1979	1979	State	Subject matter areas
Louisiana	Legislature	1977	1979	NTE	Commons and area examinations
Mississippi	SBE	1977	1977	NTE	Commons and area examinations
New Mexico	SBE	1981	1983	State	Basic skills/professional knowledge/subject matter areas
New York	Board of Regents	1980	1984	State	Basic skills/professional knowledge/subject matter areas
North Carolina	SBE	1979	1981	State	Basic skills/subject matter areas
Oklahoma	Legislature	1980	1982	State	Subject matter areas
South Carolina	Legislature	1979	1982	NTE/State	Areas examinations (NTE)/basic skills (state developed)
Tennessee	SBE	1980	1981	NTE	Commons examinations
Texas	SBE/Legislature	1980/1981	1985	State	Basic skills/subject matter areas
Virginia	Legislature	1980	1981	NTE	Commons and area examinations
West Virginia	SBE	1982	1985	State	Basic skills/subject matter areas

[1]State board of education.
[2]National Teacher Examination (developed by Educational Testing Service).
[3]NTE commons examination tests general knowledge from a liberal arts education, area examinations test subject matter areas.

Source: Education Commission of the States, Denver, Colorado

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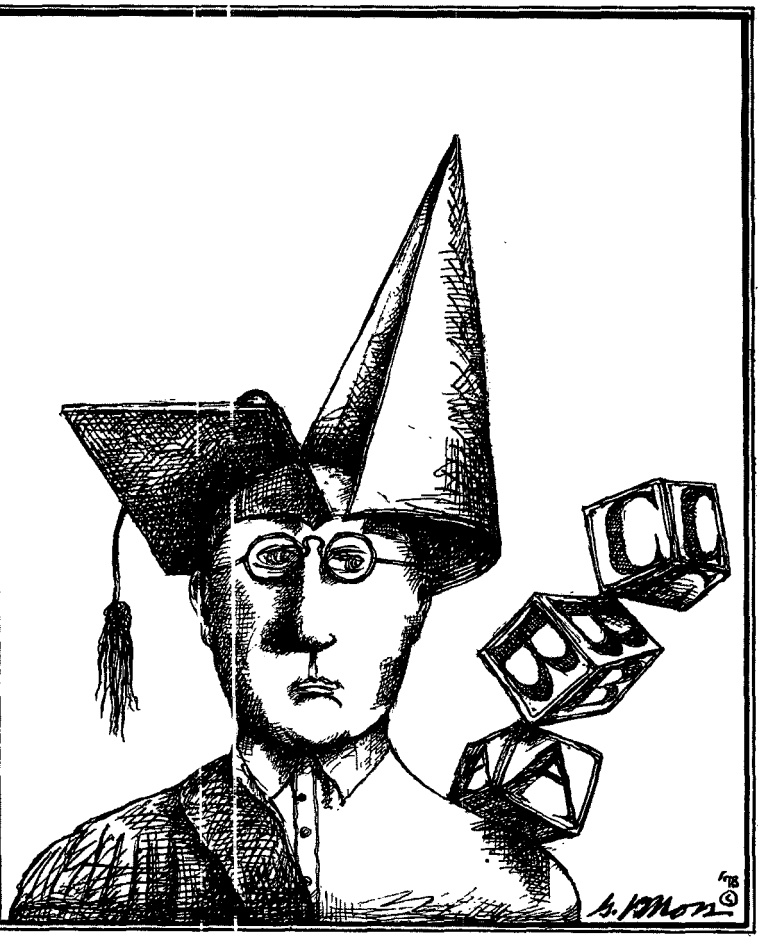

comparison with other fields is no less deflating, especially in certain premium subjects. In chemistry, for example, the average minimum salary in industry for an M.A. degree is 86 percent higher than in teaching, and for the Ph.D. is 95 percent higher.

Real purchasing power has also decreased. In the period from 1978-79 to 1981-82 alone, average K-12 teacher salaries lost 16 percent in terms of constant 1967 dollars. Over the five years from 1976 to 1981, teachers' salaries increased only 39 percent while production workers' salaries increased 45.5 percent and per capita income nationally increased 63.9 percent.

Some short-run answers

Because the problems of low teacher quality and critical teacher shortages are complex, the solutions are also complex. A triple thrust — increasing the supply of new teachers, improving the quality of the supply, and improving the work environment and pay — begins to address the whole problem. No single or simple solution is likely to solve the problem completely. Many of the ideas presented below are admittedly short-run answers. Long-run solutions will either cost more or require entirely different approaches.

- **Increasing the supply of new qualified teachers.** The ranks of available teachers for critical shortage areas could be swelled by finding more young people willing to train as full-time teachers and by finding skilled professionals willing to spend some of their time as part-time teachers. A new era in undergraduate student loans could provide an incentive for attracting young people, for example. Some states are currently experimenting with an approach introduced by the federal government in the Sputnik era, in which state or federal governments specify a percentage of a loan to be "forgiven" for each year a college graduate teaches in a critical shortage public school or subject.

Institutions also might offer teaching candidates special packages which provide financial aid and guaranteed academic contact with top professors in the major disciplines. Or able undergraduates could be encouraged to devote two or three years to teaching in the schools' equivalent of the Peace Corps and Vista. These volunteers would receive some specialized training and would serve under licensed master teachers.

The promise of mid-career support is another means to attract new people into teaching. One scheme proposes a 10-year cycle — not unlike the university's seven-year cycle — at the end of which sabbaticals are provided for retooling, or decisions on tenure would occur. The expected teaching career in this case, though, would last only 10 years, and the paid leave would routinely equip a teacher to make the transition to another field.

In an updated version of the Lend-Lease, industry and community colleges could release their employees to teach in the public schools. Industry would make up the salary difference for its employees, and would facilitate the scheduling for part-time, or full-time, limited-term teaching. State and federal tax credits might sweeten the pot for cooperating industries.

Finally, schools can effectively increase teacher supply by putting teaching technologies to better use. Computer-aided instruction, for example, is available and can free teachers for other instructional tasks.

- **Improving the quality of teacher supply.** To improve the quality, two complementary actions are needed: Make becoming a teacher tough; make staying a good teacher easy. On the one hand, this means schools of education and school employers would have to practice greater selectivity. (Preparatory institutions could also strengthen the curriculum to which candidates are exposed, once admitted.) On the other hand, the state or school districts themselves could treat evaluation and licensing procedures with the same seriousness that medicine or even the accounting industry does. The state or school districts could require relevant continuing education for teachers and could provide both the motivation and resources. For example, teachers could compete for local mini-grants to develop or update their subject-matter courses. The state also could implement the idea proposed by former Governor Jerry Brown: to establish a network of regional teacher education centers to concentrate on tooling up teachers in critical subject-shortage areas like math, science and computer instruction.

- **Improving the work environment and pay.** Ideally, all teachers would be paid the higher salaries their counterparts in other occupations earn. The unlikelihood of this possibility in the short run, however, means providing supplemental income only to some teachers: those in critical shortage areas.

Among several ways to augment selected salaries, one is being attempted in Houston, Texas, where science and math teachers are paid on a scale worth $1,200 more per year. Another way is to offer paid summer employment in the schools or in industry and to offer outside consulting work to teachers in critical shortage areas. This actual and functional deviation from the single-salary schedule presents imposing legal, political and ethical difficulties. (And it may not provide the solution to critical shortages anyway, as Houston is learning.) But the notion has practical advantages, and is worth investigating.

To make teaching more satisfying, school teachers may need to gain the kind of control over curriculum and governance that college professors enjoy. In a parallel to the teaching assistants employed at the university, aides could

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be hired to relieve teachers of monotonous, clerical chores. As another strategy, teachers serving as head teachers could replace principals, and thereby also heal the administrator-teacher rift some teachers heartily resent. (At the same time, principals and other administrators could be retrained to become like head teachers themselves, more able to guide teachers as their professional colleagues.) The creation of new steps on the teaching career ladder, such as a "master teacher" position, could stimulate and reward outstanding teachers.

Finally, all the interested parties could raise the salience of this issue. University presidents, state legislators and national leaders could speak about it and spend time on it, so that the message of the importance and the value of teachers and teaching reaches the public debate, where parents and taxpayers and teachers and prospective teachers will hear it. Initiatives of this kind will positively affect teacher morale and will help transform teaching into a more satisfying job.

To solve the problem of low teacher quality and critical shortages of qualified teachers, the state, the federal government, the university and the school district all have work to do. While their actions cannot reverse the social changes that have led women away from teaching, they can decide to work in concert for changes that are possible.

We have suggested a three-pronged approach of increasing teacher supply, of improving that supply and of improving teachers' work environment and pay. Some of the ideas are new, some are not; most are thorny. What is important is that educators and legislators recognize the problem, understand its causes, and start working on solutions.

The legislative trade-off: money for reforms

By MICHAEL FALLON

The teacher-quality issue is taking shape in the Legislature as a trade-off between money and reforms. Provide additional funds for public schools, the thinking goes, and the payoff will be reforms. But if the dollars do not flow freely, as appears likely this year, will opposition from the education establishment make some of the proposed reforms politically unpalatable? That seems a safe guess.

Legislators are closing in on teacher quality from all directions: Furnish more funds to make it easier to attract better-qualified people into teaching. Tighten working conditions to make it easier to weed out the unqualified. Lengthen the school (and teaching) year. Increase training of new teachers. Encourage all teachers to take periodic in-service training. Give bonuses to outstanding instructors.

State Senator Gary Hart, chairman of the Senate Education Committee, has introduced a reform-finance bill that would give public schools $680 million more than Governor Deukmejian has proposed for 1983-84 and would require a tax increase. "The most important thing we need to be trying to do is to get the best people into teaching . . . The key thing is getting teacher salaries up," Hart says.

In an effort to make teacher dismissal procedures "more intelligent" and to obtain Republican support, his bill would allow school districts to deviate from seniority in laying off and rehiring instructors to meet specific course needs. It would require teachers to pass a subject matter competency test if it has been more than three years since they taught the subject. Districts could dismiss teachers during their first year in the classroom under locally developed standards, and the probationary period for all teachers would be lowered from three to two years. Administrators would get only 45 days' advance notice, rather than six months, if their contracts were not being renewed. The state's minimum school year for students and teachers — now below the national average — would be lengthened from 175 days to 180 days.

Hart plans to reintroduce a 1982 bill, defeated by the California Teachers Association, that would have required future teachers to take periodic courses of continuing education throughout their careers in order to keep their lifetime credential. It also would have established an "internship" for new teachers. After two years in the classroom, they would have undertaken 24 units of postgraduate studies — worked out in consultation with their districts — before an "advanced" credential would be granted.

The internship provision will be retained, Hart says, but he is considering different sanctions for veteran teachers who balk at continuing education. "I haven't found a mechanism yet that won't turn off good teachers but doesn't allow the others to remain in the classroom," he says.

The legislative package sponsored by Bill Honig, the new state superintendent of public instruction, would grant teachers who have given "extra service" — instructors recognized as outstanding by their districts — up to $2,000 in bonuses. The state would provide the bonus funds to districts for up to 5 percent of their teachers. In return, the instructors would teach an extra course period, participate in curriculum development or conduct staff training for other teachers.

Honig also has proposed a guaranteed student loan forgiveness plan, similar to what has been made available for new doctors who agree to practice in underserved geographic areas. Guaranteed graduate fellowships would be awarded to students in accredited teacher education programs who commit themselves to three years of teaching service in under-served areas.

From Assemblywoman Teresa Hughes, chairwoman of the Assembly Education Committee, has come a bill with another loan forgiveness plan, but designed specifically to meet the shortage of qualified math and science teachers. Under her measure, the state would assume the loan liability of graduate students preparing to teach math or science and receiving either federal guaranteed student loans or national direct student loans. The assumption would be $2,000 of loan liability after one year of teaching, an additional $3,000 after two years and $3,000 more after three years.

Bill Chavez, a consultant to the Assembly committee, says there may be legislation proposing a minimum annual salary of $18,000 for entering teachers. Current average minimums are reported to range from $13,000 to $14,000. "You've got to pay teachers more money, or you cannot afford to be as selective," Chavez says. "That's the bottom line."

Michael Fallon, the education writer for the Sacramento Union, *contributed "Challenge for community colleges" in the March 1983* Journal.

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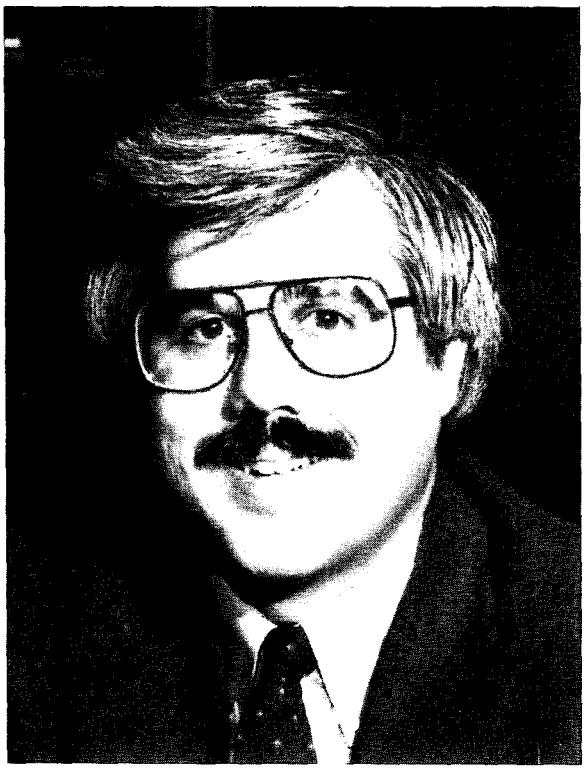
Why confidence is growing among Deukmejian's closest advisers

By ROBERT FAIRBANKS

There's a feeling of confidence in the corner office at the state Capitol these days, a feeling that Governor George Deukmejian came through his baptism of fire extremely well (the fight over taxes, deficits and IOUs) and is ready now to make a record for himself as the "Common Sense" governor who gets things done. Partly, the confidence results from a sense that the times are with Deukmejian and that fortune is smiling down.

Look for instance, at the national economy. Just as Deukmejian takes office it begins to turn around, meaning that the state will have more money than expected to treat its many ills. But more importantly, there's confidence in the corner office because of a belief that the Deukmejian Administration has the spirit and ability to overcome whatever obstacles may arise in its path. In other words, although it faces Democratic majorities in both houses of the Legislature, it expects to see many of its ideas and programs go into effect. Whether all this confidence is justified, of course, is something else again.



MERKSAMER

Much of the optimism emanates from Steven A. Merksamer, Deukmejian's executive secretary and chief of staff, the number two man — behind Deukmejian himself — in the administration. A quick, incisive person (at least when compared with Deukmejian's often slow and deliberate style), Merksamer, 36, has been laboring at Republican politics since his teens (1966 chairman of Sacramento County's Youth for Reagan) and has been a key aide to Deukmejian almost since the day that the latter took office as attorney general in January 1979.

At that time, Merksamer was one of several deputy attorneys general on the Department of Justice staff. But during a long conversation with his new boss, he distinguished himself by suggesting ways to tighten department operations and to promote Deukmejian's law-and-order programs by developing support from various community groups. Impressed, Deukmejian made Merksamer his special assistant for policy direction.

Today, Merksamer's confidence flows from an earnest belief that Deukmejian's objectives (crime control, school reform, fewer government regulations, etc.) are reasonable and necessary. And this, coupled with Deukmejian's willingness to negotiate, should produce whatever new legislation is needed to reach the governor's goals. But there is more. Merksamer is also hopeful because of his belief that Deukmejian's objectives are what the public wants and that if lawmakers try to block the governor, then public opinion can be marshalled to defeat them. Indeed, without support from the public, says Merksamer, the administration is weak and alone.

But how do you organize public support to make it an instrument of administration policy? There are many ways, probably beginning with former President Franklin Roosevelt's use of his radio "fireside chat." Deukmejian's nearest Republican predecessor, former Governor Ronald Reagan, also faced Democratic majorities in the Legislature (during most of his term) and occasionally appealed directly to the people via television. Also, after four years in office and to support its 1971 push for welfare reform, the Reagan Administration organized local support groups. Reagan's successor, former Governor Jerry Brown, himself a Democrat and with Democratic majorities in the Legislature, occasionally used television to promote his policies, such as his followup in 1978 to the passage of Proposition 13. He also organized local support groups at the rate of about one a week. But, as a former administration official added, they evaporated about as fast.

Deukmejian's answer is much more direct. He has taken the unusual step of — in effect — bringing a campaign management firm onto the governor's staff. Although Sal Russo and Doug Watts, the former proprietors of Russo-Watts, have each had previous staff experience in government, meaning that they might have been hired anyway, that isn't why they were brought on board. For nearly seven years, they have been doing nothing but running political campaigns and, as of last June, were best known for their successful effort to defeat Proposition 9 on the primary election ballot, the Peripheral Canal. In November, their reputations further improved after they stepped in at the last moment to help Deukmejian achieve his come-from-behind victory over Los Angeles Mayor Tom Bradley. Previous governors, of course, have had political operatives, liaisons and fund-raisers on their staffs. But none before has brought in men who are

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so closely connected to the business of mass campaigning.

Larry Thomas, Deukmejian's press secretary, agrees that the campaign business is usually seen as separate from the business of running government itself. But in many respects, Thomas says, governing is actually a series of short-term political campaigns, each designed to achieve some specific policy goal. "You want to set in motion all the forces you need to create the programs," he explains.

In any case, Russo, 35, is now Merksamer's chief assistant, a self-described "troubleshooter" who takes on issues requiring a knowledge of local politics and a public relations touch. Watts, 32, is the administration's director of public affairs, the person responsible for presenting Deukmejian to the public (speechwriting, arranging appearances, etc.) and developing relations with various community and interest groups. "Anything dealing with anybody outside this building, that's what I do," he says. Why did he and Russo join the administration? Because, says Watts, they are committed to Deukmejian and want to see what the new governor can do.

The October crisis

Like Merksamer, Russo and Watts are confident that many of Deukmejian's objectives will be achieved. And, like Merksamer, their opinion is rooted in an October crisis during Deukmejian's gubernatorial campaign. With only three weeks to go before the election, Deukmejian was 11 points behind Bradley — according to his private polls — and believed he would lose unless something were done.

At that point, Deukmejian asked Merksamer, who had left the Justice Department to do research for the campaign, to become the campaign manager. Also, Russo and Watts were hired after former manager Bill Roberts resigned. During the next three weeks the new team — headed by Deukmejian and including campaign consultant Ken Khachigian — developed the strategy that was to win the election and — as it turns out — was to influence much of their thinking about how the state should be run.

As Russo recalls, it was a time for somber faces, long meetings, heated discussions and ripping up old plans for new. Poring over their survey results, Russo says, they discovered that the public didn't know George Deukmejian. "We sat and looked at all the TV, and you never saw him, just glimpses from time to time." But you can't win a statewide election if the public is uncomfortable with your candidate, and it will be uncomfortable if it doesn't know what he looks like and how he sounds. The result was four new TV spots, each with George Deukmejian talking into the camera, explaining himself on issues with which he had been identified and which seemed most likely to win him votes. Two spots covered crime, one urged improved public schools and the fourth pointed to his leadership experience. And it worked: Deukmejian won.

What came out of that victory is a conviction among his handlers that Deukmejian himself is (or can be) a very popular man and that his popularity can be used to generate public support for his programs. Granted, he won narrowly, but he came up fast, and there's no reason to think that his star stopped rising on election day. What had been seen as his most severe handicap, an inability to present himself and his ideas effectively on TV, turned out to be non-existent. "We found he was just outstanding," Russo says.

Why? Replies Russo: "He'll never have the stellar qualities of Ronald Reagan, but George Deukmejian has qualities that come over very well on camera. The public isn't going to get glamour, but he's decent, fair, honest and hard-working, and I think that comes across. I think Ronald Reagan's real strength on TV is he oozes out middle-class values. I'm not suggesting that he's any suburban lawn

NEW IN PRINT

Public Financing of State Elections — Compiled by Herbert E. Alexander and Jennifer W. Frutig. Data and details about 17 states' diverse experiences with public funding of political campaigns since 1973. Includes a brief description of California's unique new Election Campaign Fund, established this year. Discusses some effects of public funding on campaign strategy, electoral outcomes and political party strength. Available for $20 (plus $1.50 postage/handling) from Citizens' Research Foundation, University of Southern California, 3716 S. Hope St., Los Angeles, CA 90007.

Evaluation of the Effectiveness, Costs and Benefits of Continuing Education Requirements — Examines the effectiveness and requirements of mandatory and non-mandtory continuing education programs for the health professions. The report concludes that, while there is little evidence to suggest that mandatory continuing education forces licensed professionals to maintain and improve their skills, most professions surveyed believe continuing education requirements should be maintained. 130 pages. Order from the Department of Consumer Affairs, 1020 N Street., Sacramento, CA 95814.

Summary of Expenditures Paid from the Senate Contingent Fund — Published by Senate Rules Committee. 8 pages. Summary of legislative expenses for each senator and Senate committee for the period of December 1st, 1981, to November 30th, 1982. Members with the highest and lowest expenses respectively, excluding retired members, were Senator Alan Robbins ($470,909) and Senator Barry Keene ($425,996), and Senator John Seymour ($215,314) and Senator Ollie Speraw ($233,456).

Trends in Public Finance: What Is Happening to Government Taxes and Services? — Prepared by the Legislative Analyst, 925 L St., Suite 650, Sacramento 95814. Examines various ways of measuring changes in taxes, the size of government and government output, then applies these different techniques for measuring changes to the data on taxes and expenditures covering the federal government, California state government, and cities and counties. Compares with the conventional wisdom regarding trends in taxes and spending at each level. Limited availability.

Overview of State Assistance to Local Governments Since Proposition 13 — Examines the new fiscal relationship between state and local governments produced by Proposition 13, which reduced local government reliance on property tax revenues. Also analyzes reductions in state assistance to local governments as a means of achieving a balanced state budget, along with the net fiscal effects of continued reductions. Prepared by Assembly Local Government Committee. 94 pages. Available for $6.60 from Assembly Publications Office, 1100 J St., Sacramento, CA 95814.

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RUSSO

WATTS

mower. He just personifies middle America. I think George Deukmejian conveys the same thing."

This is not to say that Merksamer, Russo and Watts expect to achieve Deukmejian's governmental objectives through a series of television campaigns. However, given the importance of the medium, their belief that Deukmejian can use it effectively gives them a confidence that they would not possess otherwise.

The 'hot-coal' team

For the rest, Watts is organizing public support by developing what he calls "connecting lines" between the administration and a host of interest groups: women, minorities, educators, business, etc. Much of the development involves (or will involve) appearances by Deukmejian himself. But there will also be about 15 persons on the governor's staff to do the work, three times more than former Governor Jerry Brown assigned to such activities, Watts says.

Additionally, much of Deukmejian's campaign organization remains intact under the campaign chairman, former Congressman Clair Burgener of San Diego. The group is composed of three "primary contacts" in each county and a 30-member finance committee (read fund raisers). According to Watts, "This is roughly 200 people who will walk on hot coals for George Deukmejian."

Watts expects the various interest groups to help shape Deukmejian's programs and, when necessary, help push them through the Legislature. But if additional "motivation" is required to generate legislative movement, then broader, mass appeals may be used. To Watts, this does not necessarily mean a televised speech by the governor himself. "I would not rule out anything when it comes to communicating with people to let them know where George Deukmejian stands," Watts says. Among other things he mentioned regional press conferences, radio spots, phone banks and -- to reach opinion leaders — newspaper ads.

Although it's impossible to tell how effective all this may be, an example of the strategy came up during Deukmejian's recent confrontation with the Legislature over the budget deficit and how it should be handled. On February 9th, the governor went live on television to ask the public for help against the Democratic senators who were refusing to accept his budget-balancing proposals. According to Merksamer, Russo and Watts, the speech had its desired effect: It caused the senators to reopen talks with the governor, without which there was no hope for passage of a budget-balancing bill. (A week later, the Legislature approved a compromise measure.)

But others have denied its effectiveness. Senate President pro Tem David Roberti, the Democratic leader who followed Deukmejian on television with a shorter, rebuttal speech of his own, says the calls to his office initially supported the governor but later turned decisively against him. Assemblyman Pat Nolan, one of the Republicans who refused later to support the Deukmejian-sponsored compromise, says the governor got the compromise bill not because of television but because he gave away the store.

The budget background

The background for all this lies in Deukmejian's repeated campaign promise to erase a threatened deficit in the current state budget without a tax increase. In his state-of-the-state speech January 10th, the governor made his specific proposal. Estimating that the state would be $1.5 billion in the red when the current fiscal year ends June 30th, he proposed that half the amount be cut from current-year spending and that the other half be repaid from revenues collected in the following fiscal year, 1983-84.

Democrats immediately denounced the plan, saying that the required budget cuts, even if spread over two years, would seriously hurt public schools, the poor and all other beneficiaries of state programs. Furthermore, they argued, Deukmejian's proposal amounted to deficit financing, the same device that led to ruin in the City of New York. As they had been doing all along, Democrats called again for a tax increase to erase the deficit and maintain state programs.

Eventually, Assembly Democrats, under Speaker Willie Brown, decided to support the governor's plan. Lacking the votes to enact a tax bill of their own, and not sorry to see the governor take whatever political damage would result from the proposed budget cuts, they decided to go along. But a majority of Senate Democrats, still decrying deficit spending, refused to budge.

But there was another factor in the dispute: If nothing were done to solve the fiscal problems, state government soon would be forced to start paying its bills with registered warrants, better known as IOUs. This was because the state was running out of spendable cash, and — thanks to the fiscal uncertainties — had lost its ability to borrow more. As a result, unless the uncertainties were removed, millions of taxpayers (awaiting income-tax refunds), state employees and others would receive pieces of paper saying they could have their money whenever there was enough in the treasury to pay them. During the waiting period, which would last who-knows-how-long, they were to receive 5 percent interest, well below the current money market rate.

It was at this point, with the warrants imminent and a political debacle sure to result, that the governor took to television. Whether his speech broke the impasse is hard to tell. It could have been the looming debacle, which threatened all the players, or it could have been the terms of the compromise that he quickly accepted. As indicated before, Nolan and nine other diehard Republicans in the Assembly who voted against the measure believe the compromise was a giveaway to Democrats. Instead of permitting a 1-cent increase in the sales tax if budget conditions require it later this year or in early 1984, the measure should have permitted additional budget cuts, Nolan says. However, the measure also requires that if the sales tax goes up it must later come down by an equal amount so that there is not what Deukmejian calls "a net tax increase."

In any case, Deukmejian's public support mechanisms are taking shape and Californians may see more gubernatorial struggles with the Legislature than ever before. Actually, it's incorrect to speak of the Legislature as a single entity. It's more like an Oriental bazaar with 120 rug merchants (80 in the Assembly and 40 in the Senate) peddling their wares to colleagues, lobbyists, the governor and whoever else may come along. To the degree that Merksamer, Russo and Watts can fit their public support into 120 strategies, their confidence will be justified.

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How Governor Deukmejian won in the mailbox, not the ballot box

By TONY QUINN

On election day last November, 7,370,000 Californians went to the polls and gave Tom Bradley a narrow 19,000-vote margin in the race for governor. So why is George Deukmejian governor today instead of Bradley? Because half a million absentee voters who voted in their homes, not at the polls, gave Deukmejian a 112,000-vote margin.

Not only was the 1982 governor's race one of the closest in California's history, it also marked the first time the winner was the loser on election day. Absentee voters, not those who went to the polls, provided Deukmejian's margin of victory.

The absentee voter in California has always been more conservative and more Republican than the election-day voter, but this fact never made much difference in the past. Usually the absentee ballots account for 3 to 4 percent of the total vote count, but in 1982 they made up a whopping 6.5 percent, and in a close race like the Deukmejian-Bradley contest, that was enough to make the difference.

This year's unusually high absentee ballot total was no accident. It was the product of a sophisticated absentee-ballot letter sent to every Republican household in California by the state Republican Party.

Pollster Mervin Field, in a detailed post-election analysis, cited four reasons for Deukmejian's upset of the favored Bradley: some backlash racial voting against Bradley because he is black, a lower-than-expected turnout in minority precincts which might have otherwise offset anti-black racial voting, Bradley's support for the handgun control initiative which cost him votes in rural California, and "an organized and unusually heavy GOP absentee vote."

Of the four, only the last factor can be measured in terms of actual impact on the election. Field compared this year's absentee turnout to past absentee votes in gubernatorial elections and found that not only did this year's margin exceed 1974 and 1978 by more than 200,000, but the Republican percentage was also way up. Deukmejian received 302,000 of the 505,000 absentees. While he won only 48.6 percent of the vote at the polls, he carried almost 60 percent of the absentees.

Tony Quinn is policy director for the Assembly Republican Caucus.

Field has a particular reason for looking at the absentee vote: His exit polls on election day showed Bradley winning, and Field called the wrong winner on election night. In the end, however, his exit polls were not that far off, because Bradley did win on election day. But Field had not factored in the high absentee vote and its heavy Deukmejian slant.

Absentee voters usually are the old, infirm and those who know they will be away from the polls on election day. But this year's absentee total included another element: those who found it convenient to vote absentee because someone filled in their absentee ballot application.

That someone was the California GOP which embarked on an experimental program of sending a pre-prepared absentee ballot application and Republican slate card to all 2.4 million Republican households in California. The decision to try such a monumental effort grew out of one of the party's major defeats in 1982: its attempt to overturn the Democratic reapportionment of California's legislative and congressional districts.

The party mailed twice to the entire Republican voter file in California: once before the successful effort in June to kill the Democrats' reapportionment bills and again before the unsuccessful effort in November to take reapportionment out of the hands of the Legislature. Both mailings were costly, but party officials found that if a request for funds was included in the package, the mail would pay for itself.

Last summer state Republican Chairman Tirso del Junco decided to combine a planned slate-card mailing in support of the party's candidates and its reapportionment initiative with an absentee ballot mailer. Del Junco knew from past experience that the mailing would raise nearly enough money to cover costs, and that enough absentee ballot applications would be returned to make the effort worthwhile.

But the party added a twist never used in absentee mailers before: Each individual voter's name was printed by a computerized laser process on the absentee ballot application. All the voter had to do was sign the application and return it to GOP state headquarters. Volunteers then delivered the applications to the county clerks, who sent each voter an absentee ballot.

"We knew we would get a lot of returns," explains John

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Meyers, currently the party's executive director who was in charge of the absentee project last year. "But even with a big volunteer staff, we weren't ready for the deluge of returns. Within a few days after the mailer hit, we had nearly 100,000 applications at the party's Burbank headquarters. We had to make sure all the applications were separated and each one sent to the right county.

"I think this worked because we provided our voters an easy and convenient way to do their civic duty," Meyers says. "Most people want to vote, but sometimes polling places are not convenient, or people don't want to go into strange neighborhoods or whatever. We gave them a way to vote right in their own living room. We made voting as convenient as possible."

Making it easy

Convenient is an understatement. The mail package arrived in the voter's mailbox with a bright red teaser on the outer envelope: "Urgent! Important Voter Information Enclosed." Inside was a 1982 Republican Candidate Guide, computer-written to match candidates to the voter's precinct; a contributor reply form; a four-page letter from George Deukmejian in which he explained that "I want to make sure voting is as easy as possible for you this year;" and the all-important Official Absentee Ballot Application.

People don't like to receive complicated things in the mail, and absentee voting has always seemed complicated to the average voter. So the GOP made it simple with large lettering instructions that told people to :

"Sign in the blue shaded area" — right under their computer printed name.

"Check the address listed to make sure it is correct."

"Mail your Absentee Ballot Application in the envelope provided. Your absentee ballot will arrive a few days later."

And a last bit of advice: "Please vote Republican!" Party volunteers followed up the applications by calling voters' homes in the last week of October to make sure they had received their ballot and sent it in.

Although del Junco and Meyers knew they had processed more than 100,000 applications, there was no assurance all these people would actually return the ballot itself, and right up to election day party officials had no way of knowing whether their effort would be successful.

On the last weekend before the voting, Meyers called most of the major counties to get an absentee voter count and found to his surprise that the absentee vote was way up over 1978. GOP officials feared this meant a big turnout on election day, and a possible Democratic sweep. But actual election turnout was right at the secretary of state's prediction level: Precinct voting was not up; only absentee voting was up.

It will probably stay up. Republicans have stumbled on a sure-fire way to increase their vote among their most loyal constituency. But having seen a governorship slip away because of absentee voting, Democrats aren't likely to take this new activity lying down.

Democrats made a special pitch to the elderly last year on the Social Security theme and have tried to increase absentee voting among the elderly. Legislation enacted last year by Democratic Assemblyman Art Agnos set up permanent absentee voting for several categories of voters who have trouble getting to the polls.

This year Assemblyman Peter Chacon is carrying a bill to place all persons over 65 on permanent absentee status, which means counties would automatically send them absentee ballots. "I think we should be doing everything possible to make voting easy for these people," says Chacon.

Pollster Mervin Field sees a danger in all this. While not specifically critical of either party's attempts to expand its franchise by increased absentee voting, Field is concerned about manipulation of the process. "Extensive absentee voting means you don't need to just turn out your vote on election day. It expands the 12-hour election day voting window and gives organizers additional time to work the voters."

Field worries that disinterested or poorly informed voters could be induced to apply for absentee ballots and then political organizers take over and mark the ballots as they see fit. Churches or other meeting places could be used and people be paid to mark their absentee ballots in a certain way. California could find itself with a perfectly legal form of ballot-box stuffing.

Field notes that such abuse probably would not occur in partisan campaigns where the election day vote is high but is more likely in local and initiative elections where turnout is often extremely low. City council races, for instance, are often decided by less than 1,000 votes, and it may not be hard for a political organization to obtain at least that many absentee votes.

But organization and effort in politics is not a bad thing, and it does involve the infusion of more participants into

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the process. Field expects that some of the effort that now goes into voter registration may be shifted into working the absentee voters. Casting a ballot does produce a direct result, whereas registration is an indirect political activity.

Last year California Democrats undertook one of the most extensive registration efforts in history, adding some 600,000 new Democrats to the rolls. However, about 300,000 of these new voters just replaced Democrats who had been purged from the voter rolls after the last election, and this was a paid registration drive which meant there was no income returning to the party. While Republicans undertook a lesser paid registration effort, the GOP's mail program not only resulted in actual additional ballots being cast for Republican candidates, but it also brought in contributions to the party coffers.

Changing history?

GOP official Meyers believes the unique factor in the Republican absentee ballot drive was printing the voter's name on the actual application. All the voter had to do was sign the form and place it in a postage-paid envelope. The idea for printing names on the application was first used in a special congressional election last summer and worked well enough that the party decided to pay the cost of printing names on all 2.4 million letters sent out.

Republicans will no doubt use the same technique in the future but will probably streamline the package somewhat. For instance, nowhere on the outside of the mail piece was reference made to absentee ballots, and some voters who would have voted absentee probably threw away the mail package without realizing what was inside.

Still, this party mailing may have changed California history. Had the Republicans not done it, Bradley might well have squeaked into the governorship. Had Deukmejian run no better among absentee voters than Evelle Younger did against Jerry Brown four years before, he would have lost.

Initially the Deukmejian campaign did not intend to use any direct mail but relented and sent one comparison piece which highlighted Bradley's support for the gun initiative to conservative households. Doubtless this won Deukmejian a lot of anti-gun control votes. And there would have been no absentee voter outpouring without the Republican mail piece.

Like every other gubernatorial race for the past generation, the 1982 campaign was fought mainly on the airwaves. But it was tipped to Deukmejian by what voters received in the mail.

The ballot front . . .

A roundup of statewide initiative proposals. (Signatures required and deadlines are in parentheses.)

In circulation:

- **GOVERNMENT PENSION PLANS** — a constitutional amendment initiative to require all new public employees after January 1st, 1985, to enroll in federal Social Security program. (630,136, June 30th)
- **REAPPORTIONMENT OF CONGRESSIONAL DISTRICTS** — an initiative statute to block enactment of congressional district lines as defined in AB 2, passed by the Legislature in December. Referendum would not challenge Board of Equalization lines also defined in AB 2. (393,835, April 2nd)
- **MARIJUANA** — an initiative-statute drive (the 12th) to legalize and to provide amnesty for personal use of marijuana for persons 18 and over. (393,835, April 4th)
- **SPORTS FANS CONSUMER BOARD** — an initiative statute to establish a non-profit corporation to represent the interests of sports fans before owners, Legislature and other public bodies. (393,835, April 21st)

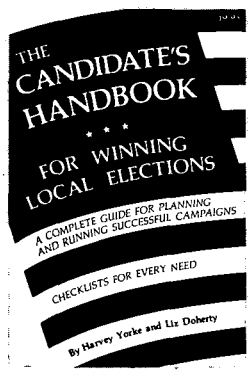
Failed to qualify:

- **LOTTERIES, GAMBLING** — a constitutional amendment to legalize gambling in California.
- **VOTERS-ELECTORS** — an amendment to clarify constitutional wording in sections on initiatives.

Qualified for next election:

None to date.

Source: Secretary of State March Fong Eu.



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That Democratic plan to move the presidential primary date

By JAMES R. CARROLL

Think back for a moment to the June 1980 presidential primary here in California. What do you think of? You can't think of anything? You don't remember? You went to the movies and missed it? Not surprising.

By the time the 1980 presidential campaign arrived in California in June, there wasn't much to write home about. The Republican contest had been wrapped up for weeks, and there was no question the GOP was ready at long last to clutch Ronald Reagan to its bosom. U.S. Senator Edward Kennedy of Massachusetts beat President Jimmy Carter here, but the president's renomination had been made a virtual certainty in primaries weeks earlier. A third Democratic contender, then-Governor Edmund Brown Jr., was unable to sustain his effort long enough to get any push from his home state. Brown had dropped out of the race on April Fool's Day. The 1980 California primary didn't clinch anything, didn't prove anything, didn't produce a new face or throw mud on an old one, didn't set any agendas for the issues. In short, it was a bore and had about as much political significance as the primary in Rhode Island.

James R. Carroll, Sacramento bureau chief for the Orange County Register, *wrote "Avoiding the limelight" in the January 1983* Journal.

The two-primary problem

Some Democrats want to change all that for 1984. They think the nation's most populous state should have impact on the selection of the party's nominee for the White House. They want some clout. If that also means personal political power for a few people here and there, and a lot of dollars being spent for all the things and by all the people connected with national political campaigns — well, who is going to complain about that?

In the meantime, the Democrats are moving on two fronts. There is legislation awaiting a first hearing that would move the June primary to early spring, thus giving it more influence on the presidential selection process. And the new chairman of the California Democratic Party, Peter Kelly, is probing the possibility of at least selecting a lot of the party's convention delegates earlier if a full-fledged early

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primary isn't feasible.

The feasibility issue is formidable at this point. Last December both Assemblyman John Vasconcellos of San Jose and Assemblyman Jim Costa of Fresno introduced legislation to move the primary. Vasconcellos proposed March, while Costa proposed April. Either time would put California right in there with those media-grabbing contests now on the calendar in New Hampshire, Massachusetts and Florida.

There is another feature of the two primary bills: All primary elections other than the presidential primary — that is, local and state elections — would be moved from June to September. "The voting public has expressed its dismay over the lengthy and increasingly expensive campaign process," Costa said in December. His plan "would not only lead to shorter campaigns but should reduce the cost of running for public office." He also pointed out that 20 other states hold their local and state primaries in September.

The result of the change, of course, is that in presidential election years, Californians would have to go to the polls three times, not two. That has brought criticism of the earlier presidential primary from an unusual source — a Democrat.

Secretary of State March Fong Eu estimated in February that moving all the elections around could cost more than $34 million. That is quite a lot higher than her estimates of previous years that ranged from $8 million to $11 million. Eu said the increased cost of the September primary would be due to "extreme, if not impossible, time pressures imposed by this bill." She said it would cost more to print and distribute ballot information pamphlets, reports of registration, and statements of vote. Local officials have expressed the same concerns. The shorter campaign period would mean all materials would probably have to be mailed first class. "To ensure the orderly administration of the election process," Eu's analysis stated, "the direct primary would have to be held at least 12 weeks before the general election. In 1984, this would be the second Tuesday in August."

A politician would have to be taking serious mind-altering substances to support an August primary, when a lot of the voters are soaking up the rays at the beach or visiting the relatives in Maine.

There is a strong possibility that the plans for an earlier presidential primary may be snagged on the cost argument. California's recession-wracked economy has dramatically reduced state tax revenues over the past year. Governor George Deukmejian and the Legislature have had to lop hundreds of millions of dollars from the current budget, speed up tax collections again, set up a standby 1-cent sales tax increase in case things get worse, and roll over a projected $1 billion deficit into fiscal 1983-84. With that backdrop of financial fragility, bills carrying price tags in this legislative session by and large will get perfunctory hearings and unceremonious beheadings.

One of the legislators who consistently has opposed most new spending measures, arguing that "the money just isn't there," is Assemblyman Vasconcellos. But the cost factor is not the reason the chairman of the Assembly Ways and Means Committee says that he now "probably will drop" his primary bill. (In fact, he says he doesn't believe Eu's estimates.) The Vasconcellos measure was introduced as part of a larger election reform package, which includes public financing of campaigns. The San Jose Democrat says he does not want to jeopardize the public financing proposal with the primary bill. "I'm not sure we could manage public financing in (the) six weeks" between a September primary and the November general election," Vasconcellos says.

Kelly thinks the cost issue probably will sink efforts to move the presidential primary. "It's my opinion that we will not be debating whether to move the primary up," he says. Instead, the Democratic Party chief is mapping plans for pushing the California delegate selection process up into the pack with other early caucus and primary states.

The new caucus plan

The Democrats took one step in that direction last year. Assemblyman Terry Goggin of San Bernardino authored legislation (signed by then-Governor Brown last summer) that provides for the selection of 37.5 percent of the Democratic delegates in caucuses on the first Sunday in May. Another 37.5 percent would be selected in the June primary based on the percentage of the candidate's primary vote. The remainder of the delegates would be picked by the candidates, again based on their shares of the primary vote. The Republican Party so far is sticking with its winner-take-all presidential primary.

Kelly would like to move the caucuses to an even earlier date than May, possibly March or April. And he wants more of the delegates chosen early. But there are problems. New rules from the Democratic National Committee for 1984 prohibit selection of delegates both in caucuses and a primary. If delegates are picked in caucuses, the rules state, a subsequent primary can only be a beauty contest — that is, a non-binding preference poll. Kelly said he is "toying" with the idea of seeking an exemption from the DNC rules so that up to 75 percent of the delegates could be chosen in early caucuses. What are his chances of convincing the DNC to let him do it? "I have no idea," he admits.

For the moment, the GOP is taking no formal position on moving the primary. The new state party chairman, Ed Reinecke, says he personally believes that because of projected costs, it's wrong to move the June balloting. If the Costa bill begins to move in the Legislature, Reinecke says, "I would expect we would oppose it." Of course, setting up early Democratic delegate caucuses is an internal party matter that does not much interest the GOP.

If either the caucuses or the primary are moved to earlier dates, the prime beneficiary is expected to be California's own U.S. Senator Alan Cranston, who announced his candidacy for the Democratic presidential nomination early in February. Already in the Cranston camp are most of the state's top Democratic officials, including former Governor Brown, Assembly Speaker Willie Brown, Senate President pro Tem David Roberti, 39 other state legislators and 15 members of California's congressional delegation. Out of a total of almost 4,000 delegates at next year's convention, 345 will come from California, and two straw polls during the Democrats' state convention in Sacramento in January suggested Cranston has a good chance of winning most of them. But that assumes Cranston is still in the race when the delegates are picked. So, again, the earlier the better, as far as Cranston and his people are concerned.

As one might expect, the state's Democratic heavyweights are backing Cranston and thinking about an earlier primary and caucuses for reasons other than altruism. Speaker Brown, Roberti and others want a piece of the action at the national convention. The best way to guarantee that is for California to have a chunk of delegates in their corner.

If Cranston is unable to collect enough delegates around the country for the nomination, his delegates may be crucial to someone else's chances. That is a considerable bargaining chip for California and its power brokers. And if Cranston does win the nomination, it will be help from his home state that will get him there. Those two considerations, more than anything else, are likely to guarantee that come 1984, California, in Speaker Brown's words, will "have a presence on the national scene."

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Mapping the present and future of California's farmland resources

By JIM CHURCHILL

The battle over preserving California's agricultural lands from urban growth has been suspended in recent years, largely because high interest rates have slowed residential construction everywhere. But as interest rates come down and a new governor promises to get freeway construction going again — a basic factor in opening new lands for urban growth — the battle will resume.

This time the fight will be different. A potent weapon is coming into the hands of those who have been fighting over the years — mostly unsuccessfully — to prevent the willy-nilly advance of housing subdivisions over the farmlands of the state.

Called the Farmland Mapping and Monitoring Program, the state project will for the first time actually identify and count the farming acres being lost annually to urban and suburban growth. As a result, the idea of "farmland loss" will no longer be abstract — something to be deplored and forgotten. It will become a measurable reality — an unpleasant presence that politicians will be forced to confront.

In a sense, those who have been fighting unfettered development over the years have been much like those in the 1960s who wanted better reading instruction in the public schools. Despite general agreement that improved reading instruction was a worthwhile goal, not much happened until the early '70s when statewide achievement testing began to measure student performance, and low reading scores became an unpleasant political reality. Only then were major improvement programs financed and begun.

Jim Churchill, a free-lance writer in Ventura County, wrote "Agribusiness' No. 1 voice" in the November 1982 Journal.

The Farmland Mapping and Monitoring Program was created in the 1981-82 session of the Legislature in a bill by former Assemblyman (now Congressman) Richard Lehman of Fresno. During the '70s the U.S. Soil Conservation Service had been conducting a congressionally mandated inventory of important farmland nationwide, but the state of California decided to build upon and accelerate that program with a mapping-monitoring project of its own. The idea enjoyed support from an unusually wide range of interests including farm groups (the California Farm Bureau, Cattlemen's Association), development and business interests (state Chamber of Commerce, Association of Realtors, the Building Industry Association) and environmental groups (the Sierra Club, People for Open Space).

But that's about as far as the unity has gone. As we shall see, there are sharp disagreements among the groups over how the counting should be done.

Essentially, the mapping program has two parts. The first, generally uncontroversial, amounts to a simple counting of the acres now in agricultural use. Beginning with 40 of California's 58 counties, the program will produce maps showing the location of crop and grazing lands in each county. (See box.) The work is being done by the Department of Conservation, and program manager Arthur Mills says it should be finished by late summer. As maps are completed they are submitted to the local board of supervisors for their approval.

What makes the California program unique in the nation is part two: the annual updating of maps to show how much farmland is being lost to urban use and, also important, how much new farmland is being created from untilled open areas. These will be the politically important numbers — the numbers that define the problem and in so doing help shape the results.

Thus Jack Shelby, lobbyist for the California Association

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Those tricky definitions

Four categories of cropland will be designated on the county maps:

- **Prime land.**
- **Land of statewide importance.**

(These two categories are based on technical criteria relating to soil quality and availability of water.)

- **Land of unique importance.** (Although failing to meet the criteria for the first two categories, such lands are currently in production of any of the state's 40 highest cash-value crops, such as grapes in Napa Valley or avocados in San Diego County.)
- **Land of local importance.** (This will be defined in each county by a local committee advising the board of supervisors. It will include lands important to each county's local economy.)

of Realtors, wants to keep the numbers showing conversions to urban as low as possible, thereby supporting his contention that severely restrictive land use controls are not needed. How? By ignoring conversions of farmlands if some preliminary step had been taken in the past to convert them to urban use. Such steps could include the approval of a subdivision map or the authorization of a sewer bond issue. Since these lands are "committed" by government action to urban use, Shelby says, they should not be counted as conversions.

Larry Orman, speaking for the Bay Area organization People for Open Space, takes the opposite view. He argues that if the land is being farmed, it ought to be shown as a conversion. "The point is to describe what is," he says. Orman also contends that the conversion rate is already bound to be misleadingly low. He says, "In the Sierra foothills, you have a tremendous amount of very good land being chopped up into 10-20-50-100 acre ranchettes and effectively being taken out of grazing, and you see the cattlemen out ball-and-chaining chaparral slopes to create new grasslands. But technically, it's very difficult to monitor such large-lot rural subdividing, so the monitoring will underestimate conversion by quite a bit."

Others contend that conversions should be weighted, so that the conversion of prime farmland to urban use would not be balanced by the opening of a new farm on less productive land.

At the moment, Shelby and the others are waiting for the Conservation Department to come up with regulations saying how the annual conversion rates are to be defined. However, Mills, the mapping program manager, says that the regulations will really amount to "guidelines" for the local government officials who make land use decisions. In any case, whether "regulations" or "guidelines," they are to be announced soon.

But it's hardly necessary to wait for conversion numbers to see the kinds of battles that will erupt. In Ventura County, for instance, the board of supervisors accepted the Conservation Department maps and, without waiting for conversion numbers, asked the county staff to come up with a zoning ordinance that would in effect preserve much of the county's agricultural land. The result was a two-day hearing before the planning commission in January that pitted farmers, environmentalists and county staff against other farmers, developers and the owners of rural, non-agricultural acreage.

Essentially, the first group was sympathetic to the proposal and the second group was strongly opposed. Environmentalists warned that the county's population is expected to jump 50 percent by the year 2000, creating land use pressures that cannot be withstood unless protective measures are adopted now. A pro-development group argued that the proposed ordinance would place "unwarranted restrictions on the flexibility of landowners . . ." The Ventura County Farm Bureau, split between farmers who might want to sell their land at a profit and those who want to preserve agriculture, said development should occur in existing cities before it uses agricultural lands.

Although the planning commission voted unanimously against the staff proposal, supervisors have not dropped the idea and have asked for a new plan. Farm Bureau Director Rex Laird, looking at all agricultural areas of the state, predicts that farmland preservation will be the issue of the '80s.

Some local officials, while supporting the farm map program because it helps them make decisions, fear that it may lead to land use regulation by the state. One such is Contra Costa County Supervisor Sunne Wright McPeak. "Land use planning belongs to the counties," she says. But Orman, of the open space group, disagrees. "If you want to preserve agricultural lands, you have to regulate," he says.

Whatever the outcome, the Farmland Mapping and Monitoring Program will be providing information to sharpen the focus of the debate.

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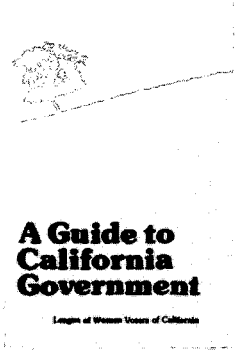

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A bipartisan push for some campaign finance reforms

By BUD LEMBKE

Cries of alarm about the spending records set with such regularity in California political campaigns are an old refrain. But new voices are being heard this year in the chorus of complaints about possible favoritism flowing from the gifts.

For that reason, proposed remedies — partial public financing of running for office, combined with spending or contribution limits — are for the first time seen as more than a do-gooder exercise by a handful of legislators in Sacramento. Public financing, after bouncing around the Legislature for more than a decade, is now being taken seriously and is even given a long-shot chance of passing.

It would have a better chance if it weren't for the timing: Any proposal such as this costs tax dollars, just when the state confronts a prospective $900 million budget deficit.

Still, some attempt at reform of campaign spending practices in 1983 or 1984 is seen as a distinct possibility. This is because of troubled consciences in some cases and because the heat is building up under legislators — Democrats and Republicans alike — to do something about the trend which saw a horrendous increase in campaign spending last year. It wasn't just a record high. Translated into baseball terms, it would be like someone in the big leagues coming along and swatting 1,400 career home runs to break Henry Aaron's record of 755.

Helping to build the fire under the Legislature are groups like California Common Cause and the League of Women Voters. The League addressed the question, "Can the influence of big money in elections be controlled?" at a Los Angeles meeting in January. The California Democratic Party's committee for party effectiveness, headed by Elizabeth Snyder of Los Angeles, is also working in this area.

Bud Lembke, a free-lance writer in Berkeley, wrote "The marketing of slate mailers" in the January 1983 Journal.

California Common Cause, which has been plugging for public financing of campaigns for 11 years, has allies among Republican legislators for the first time. They include Assemblyman Ross Johnson, a conservative from Fullerton, and state Senator Ken Maddy of Fresno. Robert Naylor of Menlo Park, the GOP floor leader in the Assembly, is also ready to support some kind of campaign spending reform.

The election last November of several more liberals to the state Senate gives public financing more of a fighting chance in that house. Liberals in both houses have at least paid public financing more lip service in the past than have conservatives. And now both groups must keep in mind that the threat of an initiative which gives them more "reform" than they want pushes them to pass something.

Meanwhile, Common Cause has to proceed delicately on the issue because Democrats are miffed at the organization for joining forces with the Republican Party last year in an abortive effort to overturn the Democratic reapportionment.

That has not stopped Common Cause from grinding out press releases on the subject while its executive director, Walter Zelman, works the Capitol halls. He keeps in close touch with staff people for those Democrats who have backed public financing in the past: Assembly Speaker Willie Brown of San Francisco, Assemblymen Richard Alatorre of Los Angeles and John Vasconcellos of San Jose and state Senator John Garamendi of Walnut Grove.

A bipartisan package

Governor George Deukmejian has not supported the use of taxpayer funds for political campaigns, but he has not yet taken a position on any of the specific proposals advanced this year and says that he is "certainly willing to look at them." Proponents of public financing interpret that to mean that Deukmejian might sign a bipartisan bill which covered only legislative, not statewide, races.

Another question mark is David Roberti of Hollywood, president pro tempore of the state Senate, who previously

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has favored public financing "in principle," but has not pushed it. Now the Democratic leader is sending a representative to meetings of a coordinating committee of staff lieutenants who are trying to put together a bipartisan plan. They began meeting in January under the leadership of William Cavala, deputy director of majority services in the office of Assembly Speaker Brown.

"The speaker last year tried and failed to get a bill passed," explains Cavala. "He was unhappy about that, so late last year, I was assigned to see what we could do."

About 10 aides from both the Democratic and Republican leadership of both houses have participated in the meetings so far. They include Tony Quinn, former member of the Fair Political Practices Commission and now policy director of the Assembly GOP caucus headed by Naylor, and Peter Bontadelli of Maddy's staff. Cavala hopes the group will have a compromise bill with bipartisan support early this month.

"We eliminate anything that draws an objection," says Cavala. "For a while, I was afraid we wouldn't have anything left, but the outlook to get something passed is better than I thought it would be when we started to meet."

The committee's package and other proposals vary widely in their approaches. Some would provide public financing for statewide as well as legislative races. Contribution limits of all kinds are proposed. Most plans require a "threshold" of private fund raising to be reached before public money would be provided, to discourage frivolous also-ran candidates.

State money to match privately raised campaign funds ranges in the various bills from a 1-to-1 to a 3-to-1 basis. Any successful bill would likely confine public financing to the general election, since incumbents are not inclined to provide financing for their opponents in the primary.

The biggest challenge is to find a formula which does not offer an advantage to either major party, according to the GOP's Quinn. Current negotiations involve putting a cap on campaign spending. (Under a U.S. Supreme Court ruling of 1976, *Buckley v. Valeo*, limits on contributions were found constitutional but limits on spending were found to violate a candidate's First Amendment free-speech rights unless public financing is accepted by that candidate.)

Willie Brown's success

The bipartisan momentum for campaign-finance reform this year can largely be credited to the fund-raising achievements of Speaker Willie Brown. "Willie has taken money-raising and made it an art," concedes Senator Maddy.

An analysis by Legi-Tech, a legislative information service, shows that committees controlled by Brown raised $1.88 million between January 1st, 1981, and November 2nd, 1982. Placing second was the California Republican Party, with $1,282,302 in contributions. Roberti's campaign committee was third. (The speaker says Legi-Tech missed one of his committees, and that he actually raised $2.8 million in 1982.)

Total spending for all state and legislative races in 1982 was $83 million — nearly double the amount spent in 1978, according to the Fair Political Practices Commission. The average cost of winning a state Senate or Assembly seat last year was $429,000. Since Democrats outnumber Republicans in both houses (Assembly 48-32, Senate 25-15), and since incumbents have more clout as fund-raisers, Democratic legislators have been collecting more than their Republican colleagues. "We were outspent about $100,000 a race for Assembly seats," laments John Meyers, executive director of the state Republican Party. "We were clobbered by the so-called friendly PACs."

Common Cause director Zelman says some Republicans realize this trend may not be reversible, and this is the main reason some have now embraced public financing of campaigns. "Republicans realize they're the minority party, and they expect that — now that they've cut a deal with the Democrats on reapportionment — they're going to remain the minority party," says Zelman. "The minority party has trouble raising money. They cannot outraise Willie Brown, and they know it."

There are other factors at work, according to Zelman: Many legislators are weary of having to spend so much time on fund raising and also sensitive to the bad press which they receive because of it. By contrast, Speaker Brown is not at all bashful about discussing his fund-raising prowess. "We had tremendous success in the last campaign — more than under the previous speaker," says Brown. "I suspect many of the Republicans who are now looking with favor on the (public) financing and some form of campaign reform are agitated that we have been so successful . . . And they're also angry with their own funding sources, their traditionally Republican funding sources. We've managed to invade those."

Despite his rich harvest of campaign money, Brown's ardor has not cooled for public financing of legislative campaigns. "It's kind of interesting that I push it harder than anyone else, and I also raise more money under the current system than anyone else," he smiles.

The idea of public financing of campaigns was being discussed in Sacramento even before Common Cause won Watergate-inspired passage in 1974 of public financing of presidential primaries and general elections. But until 1982, no state bill ever got out of committee. Then early last year, with Speaker Brown exerting pressure, a public financing bill supported by Common Cause and authored by Assemblyman Elihu Harris of Oakland finally went to the Assembly floor. It failed, but an even stronger bill, authored by

In other states . . .

While California — the most expensive state in which to run for office — has been slow to accept public financing, 15 other states currently use the process to provide revenue for parties or candidates or both.

California joins them in a minor way this year, with a new law which allows persons to contribute to the party of their choice with a non-deductible donation at the time they pay their state income taxes. This "add-on" tax system has produced very little revenue for campaigns in the four states (Maine, Massachusetts, Maryland, Montana) where it has been initiated, according to Herbert E. Alexander and Jennifer W. Frutig. They edited a 319-page book summarizing the various state plans, recently published by the Citizens' Research Foundation at USC. (See "New in print.")

In an article reprinted in their book, Jack L. Noragon of the Ohio Legislative Service Commission concluded that the states' experiments with trying to raise money from income tax checkoffs for campaign finance has for the most part been "disappointing." However, he also said that the public finance concept has "gained more than a foothold" and, by revitalizing the party structure, holds out hope that political parties can counterbalance the "cult of personality" now common in both state and national elections.

— B.L.

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Alatorre, cleared the Assembly, 45-29. It featured a voluntary tax checkoff contribution on income tax forms. When that bill got to the Senate Elections and Reapportionment Committee, it gained only one vote — that of Garamendi.

A conservative's 'radical' plan

Assemblyman Ross Johnson voted against both the Harris and Alatorre bills in 1982, but this year he has introduced a public financing measure which he considers "by far the most radical" of any of the bills on the subject. Its features include:

- **Banning** all contributions by poltical action committees, corporations or groups to primary or general election legislative races.
- **Limiting** individual contributions to $250 per fiscal year. The contributor would have to sign a statement that the money was being given of his own free will and from his funds.
- **Giving** $2 of public money for every dollar raised in a candidate's district, but no matching money would be available for contributions from outside the district. Matching money would come from an income tax checkoff.

Johnson also proposes what seems like an ingenious method for circumventing two loopholes left by the *Buckley-Valeo* ruling. The Supreme Court ruled that a candidate's spending of his or her own funds on the campaign could not be limited, unless public financing were accepted. Thus a wealthy individual could theoretically "buy" a public office. The court said expenditures by independent committees on behalf of a candidate also could not be limited. Constitutional guarantees of free speech in the First Amendment were cited in both instances.

Johnson would plug both loopholes by requiring that public money, equal to an independent committee's contribution, be paid to any opponent. These approaches, which constitutional lawyers believe meet the First Amendment test, would remove any incentive for big spending by wealthy candidates or independent committees, Johnson says.

The present system, in which the caucuses of both parties in Sacramento spend large amounts on district races throughout the state, is distorting the democratic process, according to Johnson. The resulting concentration of power in Sacramento leaves local communities with little influence on who is elected, he believes.

Assembly Minority Leader Naylor laments "the inordinate amount of time we spend raising money around here. Every year, the ante gets raised dramatically," he says. "I'm convinced it's having some adverse effect on the objectivity of the legislative process. If a public financing bill included prohibition of off-year fund raising from PACs; if it included some contribution limit, including limits on transfers among candidate committees — I think it might have enough advantages to improve the process."

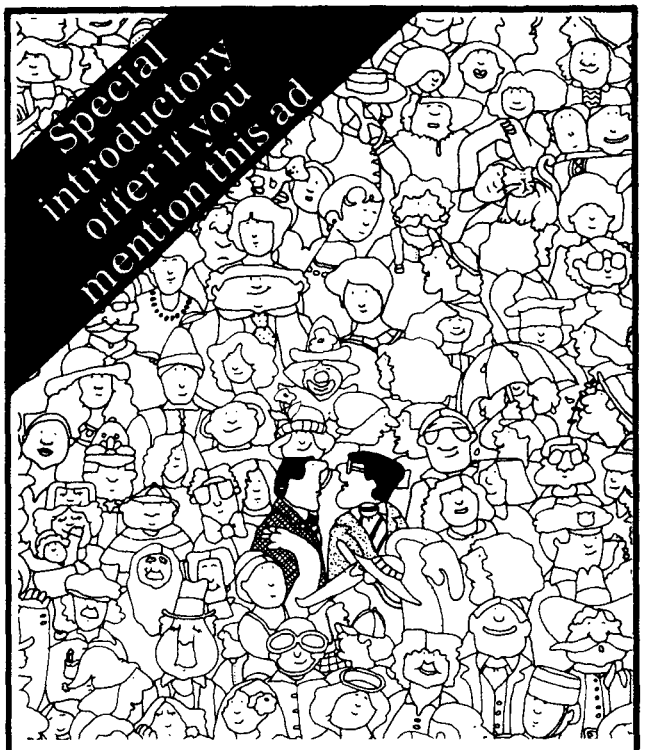
In the current budget crunch, any proposal to supply campaign matching funds from the state general fund is considered politically unrealistic. Common Cause's Zelman regards the estimated $5-$11 million annual cost as "small potatoes" compared to the amounts which special interests take from or deny the state treasury through their targeted contributions to incumbents casting "correct" votes.

Alatorre says that since February an organized campaign opposing public finance has funneled more than 200 printed postcards a week into his office. He said he does not know who organized the postcard blizzard. Among leaders opposing publicly financing campaigns are Democratic Assemblyman Richard Robinson of Garden Grove, the caucus chairman who is also a highly skilled fund-raiser, and Meyers, the state GOP executive director. Meyers argues that once government starts paying for campaigns, it will "call the tune."

Legislators who have joined the push for campaign finance reform of some kind include Assembly Democrats Robert Campbell, Lloyd Connelly and Tom Bates, and Republican Assemblywoman Marian Bergeson. In the Senate, supporters include Democrats Gary Hart and Nicholas Petris and Republican Jim Ellis. Assemblyman Gray Davis has introduced a bill that would require a candidate to sign a code of ethics to qualify for public money. "I'm not going to ask the public to finance the kind of mudslinging we've seen in recent years," Davis says. Democratic Assemblyman Richard Katz of Sepulveda wants a stricter law on disclosure of contributions.

Assemblyman Johnson said he believes his drastic measure is "the only one of the proposals being discussed that is really going to turn over the system." If he can't get it passed by the Legislature, Johnson says he'll try for a ballot initiative.

But Common Cause is soft-pedaling the possibility of a ballot fight. "An initiative is hard to qualify and hard to pass," says Zelman. "We'll look at that only if this (attempt in the Legislature) breaks down."



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The penny-pinching congressman

By JEFF RAIMUNDO

Of all the ways for a lawmaker to irritate his colleagues, none is more effective than to stand aloof while they belly up to the pay window for their bigger salaries, expense allowances and similar good things. No matter what the abstainer may say, his refusal to participate always rebukes those who do. As a result, Leon Panetta's latest action virtually assures that he will never be named "most beloved" member of California's congressional delegation.

Panetta, from Monterey, is refusing to take the 15 percent pay increase that his colleagues voted for themselves last December. Also, he has returned more than 10 percent of his $505,000 office and staff allowance for 1982 ($52,495). Such behavior is not new. Last year Panetta rejected the $19,650 tax deduction that Congress granted itself in 1981. Overall, says the 44-year-old Panetta, by returning staff and office allowances and by refusing salary increases during the Congresses in which they have been enacted, he has returned more than a quarter million dollars to the Treasury during his six years in office.

This is not to say that Panetta got no raise this year. Instead of 15 percent, he is taking the 4 percent that was granted to federal workers generally. Similarly, when he rejected the big tax deduction in 1981, he still took the $3,000 deduction for his Washington living expenses that had been allowed until then. (In response to protests, Congress last year dropped the $19,650 and restored the $3,000.)

But such niceties have not stilled private grumpings from some members of California's Democratic delegation. "He's just demagoguing the same anti-government feeling that most conservatives around here have exploited in the past few years," says one. "Anybody could show off like that by underpaying his staff or not serving his constituents. But that's not necessarily good government."

Congressman Robert Matsui, a Sacramento Democrat, takes a different view. "I don't think Leon's trying to exploit the issue. As a taxpayer, I think what he's doing is commendable, although I can't say I get too excited about it. But it's a positive move for him, considering his district."

Panetta represents a largely conservative, affluent region that for 20 years before his election in 1976 was represented by a Republican and which still frequently tilts to the GOP in some elections. He's not uncomfortable in the area, however. Panetta is a former Republican himself, a one-time aide to California's former Senator

Thomas Kuchel. He later switched parties when he left his job as head of the U.S. Office for Civil Rights in a dispute with the Nixon Administration. He was a Democrat when, after that, he worked for New York's former GOP Mayor John Lindsay.

Consistent with that background, Panetta has established himself as one of Congress' growing fraternity of new-breed Democrats who are fiscally conservative, pitch high-tech development, reject the big-ticket social programs of the past but still retain a close-to-traditional loyalty to the Democratic Party's social principles.

"I sympathize with congressmen who feel they need that money (the pay raises, tax deductions and expense money) to survive in Washington," says Panetta. "I don't question them. It's just my personal feeling that it's the whole problem of credibility. I'm on the Budget Committee. I find it very difficult to face people and say, 'You have to sacrifice,' and at the same time not show the same example myself. We can't reduce vital federal programs without first looking in our own backyards for savings.

"The total amount of money is not a lot, but in terms of the credibility it gives me, I'm better able to deal with the issues that are so important before the committee right now. And while my savings amount to little when compared to the enormous budget deficits we face, they would make a major difference if they were matched by other members of Congress and officials in the federal bureaucracy."

House of Representatives officials will not reveal how many members of Congress return money to the Treasury each year, but one aide said it is very few — and most of those are Republicans. "Most congressmen try to use up their total allotment," says Panetta. "Either they put it into bonuses for their staff or they find some other way to use it up."

But not Panetta. He generally doesn't give bonuses. His chief Washington aide, Diana Marino, says Panetta pays his staff "lower than most members pay up here. We aren't overloaded with high-paid people." He, like most other California lawmakers, is allowed $138,014 a year for office expenses such as rent, telephones and travel, and $366,648 for staff salaries. As a member of the Budget Committee, which oversees virtually all federal spending, he has the services of another staff member whose salary is not drawn from his office account.

Despite his savings, Panetta insists he still manages to serve his constituents adequately. He returned to his district 38 times in 1982 and handled close to 5,500 inquiries in his five field offices, he says. But he says he flew reduced-fare flights rather than first class, sent out only two constituent newsletters and "closely watched all expenditures to ensure efficiency."

Panetta doesn't expect to change his practices, despite the irritation it engenders among his colleagues on Capitol Hill. "I think congressmen have a responsibillity to make the best use of the taxpayers' dollars," he says. "You know, one mistake we make too often is pressuring government agencies into spending a set amount. If they wind up saving something, we penalize them by taking it away at the end of the year and cutting their budgets in the next year because we say they couldn't use it. We ought to be rewarding them instead."

Jeff Raimundo is in the Washington bureau of McClatchy Newspapers.

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Advice from the legislative analyst on ways to save $676 million

Each year, usually in late February or early March, the legislative analyst issues his report on the governor's proposed budget for the coming fiscal year. But the title "report" is misleading. The document is really a long and detailed look at the condition of state government itself. It is full of background information, comment and recommendations, all of which are deliberately apolitical and aimed at cutting costs.

This year's report is no exception. Prepared by Analyst William G. Hamm and his staff of nearly 100, the report covers more than 500 issues and topics, numbers nearly 2,500 pages and says its recommendations, if adopted, would save state government $676 million next year.

What follows is a selection of items from the report to show its range and depth. The only agency exempt from come-uppance is the Legislature, Hamm's boss.

Legislative, judicial and executive:

• The cultivation of marijuana on state-owned lands constitutes a significant threat to the safety of both state employees and the general public, and interferes with the state's management of these lands.

State and consumer services:

• The average radio repair technician employed by the state takes over twice as much time to provide radio repair services as technicians employed by the private sector.

Business, transportation, housing:

• The three members of the Alcoholic Control Appeals Board receive an annual salary of $25,444 plus another $8,000 in benefits, despite the fact that the board meets only once a month, generally for one day, to decide cases.

• The Department of Housing and Community Development's budget shows that, although the department had spent approximately $7.1 million through June 1982 on the Century Freeway Housing Replacement Program, it had completed only six units of housing.

• An analysis of the Department of Savings and Loan brings into question the continued need for this department. Given the conversion of state-chartered associations to federal charters, we conclude that the department currently is not capable of fulfilling its statutory mandate, and as a result is operating little more than a registration and advisory program for newly chartered associations.

• The CHP is requesting $363,000 to replace a helicopter that won't be purchased until next month.

Resources:

• Although the budget proposes a 93 percent reduction in funding for the California Waste Management Board's grants and contracts, it proposes no reduction in the level of staff devoted to the development and management of grants and contracts.

• An analysis of the Department of Forestry's budget

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indicates that the state is heavily subsidizing the federal government by providing fire suppression services to federal agencies without recovering its costs.

• The Department of Forestry and the Department of Fish and Game allow the use of state-owned or leased aircraft for executive travel to destinations within a two-hour driving distance or that are well served by commercial airlines. This tends to unnecessarily increase state costs and circumvent legislative efforts to reduce state travel by 25 percent.

• The Department of Fish and Game continues to rely on fishermen and hunters to subsidize the cost of programs serving the commercial fishing industry. These subsidies keep fishing and hunting license fees higher than they otherwise would be.

• An analysis of the Department of Parks and Recreation budget indicates that despite a 90 percent reduction in the amount of dollars disbursed for grants during the past two years, there has been virtually no reduction in staffing for the grants program.

• Because of the threat posed to the general public from marijuana cultivation activities in the area, we recommend that language be added to the Budget Bill prohibiting encumbrance of any funds to develop trails and camps in the Sinkyone Wilderness (Humboldt County) until the Bureau of Narcotic Enforcement certifies that this area is safe for public use.

Health and welfare:

• An analysis shows that while the budget would reduce funding for the Department of Aging's brown-bag project by $155,000, it proposes to spend $70,000 on the California Senior Legislature.

• An analysis of the Department of Health Services' Hazardous Waste Management Program shows that while the department wants to complete issuance of permits to hazardous waste treatment, storage and disposal facilities by 1990, at the current approval rate it will take 200 years to complete the permitting process.

• The budget for Medi-Cal counts a $19 million savings twice.

• The administration's proposal to require enrollment in prepaid health plans will not save $800,000 in 1983-84, as the budget claims, but instead will increase costs by $4.5 million.

• Although the Department of Rehabilitation is projecting a 15 percent increase in the number of clients during the budget year, the budget contains no funds for caseload growth.

• When all government-supported benefits available to AFDC (welfare) recipients are considered, the average cost of benefits provided to a family of three is $9,174 per year.

• California continues to lead the way in terms of SSI/SSP (aged, blind and disabled) grant levels. On July 1, 1982, California's maximum grant per aged or disabled couple was $838 per month. Among the 10 largest states, the second highest maximum grant amount was provided by Florida — $670 per month, or only 80 percent of what California provides.

• When all government-supported benefits available to SSI/SSP recipients are considered, the average cost of benefits provided to an SSI/SSP couple is $13,487 per year.

Youth and adult correctional:

• Between January 1, 1982, and January 1, 1983, the population of California's prison system increased by 5,000 inmates — an 18 percent increase in only 12 months.

• The commitment rate (number of male felons for every 100,000 persons in the 18-49 age group) in California was 116 in 1981-82. In contrast, the commitment rate for the United States as a whole was 139 in 1980. The Department of Corrections expects the commitment rate to continue increasing for another three years, and then stabilize at approximately 146 commitments per 100,000.

Education:

• Although California ranks 50th out of 50 states and the District of Columbia in terms of the amount of revenue provided to public schools as a percent of state personal income, this does not necessarily mean that the state is putting too little into K-12 education. Two factors at least partially account for California's low ranking:

1. The state ranks 48th among the states in terms of the percentage of its 1980 population in the 5 to 17-year age group. (Thus, other things being equal, California would be near the bottom of the ranking in terms of K-12 education expenditures.) And California spends relatively less per pupil on school administration and transportation than do other states (45th and 50th in the nation, respectively).
2. California ranks fourth in the nation in terms of per capita income.

Therefore, the state's low ranking in terms of revenue provided to public schools as a percentage of state personal income, by itself, does not provide a basis for concluding that California needs to spend more for education.

• With respect to the high school curriculum:

1. The only statewide graduation requirement imposed by the Legislature is that students take a specified amount of physical education. There are no statewide graduation requirements for English, mathematics, science, foreign languages or social studies.
2. The average district in California requires students to spend more time in physical education than in mathematics and science classes combined.

• The average California student in public schools spends 100 fewer hours per year in school than the average student nationwide.

• An analysis fails to identify any benefits from limiting the time a kindergarten teacher spends in the classroom to three-to-four hours per day. In contrast, a primary grade teacher must spend up to six hours in the classroom. We recommend that urgency legislation be enacted repealing the provision of the Education Code that requires school districts to limit the use of their kindergarten teachers.

• We recommend that urgency legislation be enacted to repeal the provision of the Education Code which requires students to spend between 200 minutes and 400 minutes every 10 school days participating in physical education programs.

• Regional occupational centers and programs, as well as adult education vocational courses, are not adequately preparing students to obtain jobs with potential for advancement. For example, in 1982-83, ROC/P and adult education courses included those training pupils to be restaurant waiters, waitresses, dishwashers, grocery store checkers, amusement attendants and hotel clerks. Furthermore, the number of pupils completing training in public school vocational courses in cosmetology in 1979-80 was four times the estimated number of job opportunities.

• Although the administration is proposing to consolidate nine education programs into a single block grant, the governor's budget indicates that the details of the block grant proposal will not be developed fully and available to the Legislature until August 1, 1983 — one and one-half months after the deadline for legislative action on the Budget Bill.

• The analyst recommends that the Native Ameri-

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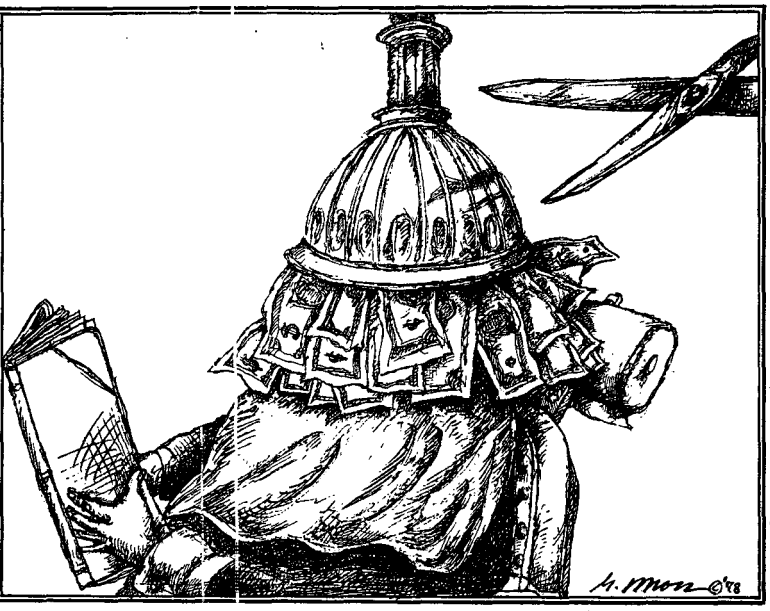
can Indian Education Program be eliminated because there is no justification for having a separate compensatory education for Native American pupils in addition to the regular state and federal compensatory education programs.

• Although the U.S. Census Bureau ranks California 41st in the nation in terms of expenditures per $1,000 of personal income for higher education, the financial commitment to higher education on the part of California's taxpayers is relatively high — not low. This is because the Census Bureau data contains numerous flaws, and is not at all indicative of the state's relative support to higher education.

• The University of California and the California State University continue to offer free of charge avocational, recreational and personal development courses (such as badminton) while community colleges can offer these



courses only on a fee-supported basis. Accordingly, the analyst recommends that the budgets for UC and CSU be reduced to delete state support for these courses.

• While many California residents are unable to enroll in engineering or computer science courses at the UC or CSU because they are filled, foreign students comprise a significantly greater percentage of enrollment in these courses than they do in the UC and CSU generally.

• UCLA's policy toward hospital affiliations indicates that many of these affiliations lack substantive UC involvement. Moreover, a relatively large portion of the funds provided by the state to support hospital affiliations are being kept by UCLA, rather than passed along to the affiliated hospitals.

• The rents charged on CSU-owned housing are considerably less than the levels required by current law. For example, the chancellor of CSU is paying a monthly rental of $232 for the privilege of occupying a dwelling valued at nearly $1 million. Similarly, the president of Fresno State is paying $164 a month to occupy a dwelling valued at $318,000.

General government:

• The analyst recommends a $1.1 million augmentation to the budget for the Agricultural Labor Relations Board because the cut proposed by the administration would not leave the board with sufficient funding to fulfill its statutory mandates.

• We find that the costs incurred by the California Public Employment Relations Board in 1981-82 are almost twice as much as the costs incurred by the PERB's New York counterpart, and 7½ times more than the cost of the PERB's Massachusetts counterpart, even though all three entities handled a reasonably comparable level of workload in that year.

• An analysis of the California Horse Racing Board raises questions regarding:

1. The use of General Fund revenue to support the cost of benefits provided to employees of horse owners and trainers, given that benefits of this type traditionally are financed by employers themselves.
2. The use of state funds for such purposes as newsletters, soccer teams, and recreation hall attendants.

• The Department of Food and Agriculture's predatory animal control program spent $210,000 in 1981-82 to prevent losses valued at $160,000. Even if the program was 100 percent successful in preventing these losses, it would have been more cost-effective for the state to compensate the ranchers directly for their losses.

• The budget contains $1 million to pay interest on General Fund loans. Given the condition of the General Fund and the governor's proposal to carry over a large portion of the current-year deficit into 1983-84, it is clear that this request is totally unrealistic.

• Statutory officers, constitutional officers and legislators have experienced a significant reduction in the purchasing power of their salaries during the last 15 years. Statutory officers' salaries declined in real terms 16 percent during this period, while legislative salaries declined by 31 percent and constitutional officers lost between 33 and 56 percent of their salary to inflation.

Perspectives and issues:

• Governments in California will spend $71.6 billion during the current year. Of this amount, counties will spend about 20 percent, cities will spend about 21 percent, special districts will spend about 10 percent, local education districts will spend about 21 percent, and the state will spend about 28 percent.

• While the state's work force has increased by approximately 5 percent (11,000) since 1977-78 (Proposition 13), the state's population has increased by nearly 12 percent during this period. Consequently, the state's work force as a percentage of the state's population has declined by about 6 percent since 1977-78.

• The average salary increase in 1982-83 granted by cities to their employees was 6.5-7.3 percent. The average increase granted by counties was 6.3-7.2 percent. In contrast, state employees received no salary increase, although they did receive an increase in their take-home pay as a result of the reduction in the required pension contribution.

• More and more, the courts are delaying, changing or reversing actions taken by the Legislature, and thereby thwarting legislative intent. Court decisions issued since legislative action on the 1982 Budget Act was completed have increased General Fund costs in 1982-83 by $400 million and reduced revenues by $31 million. The analysis identifies several actions that the Legislature could take to minimize the potential for the courts to overturn legislative decisions.

• Research covering work-for-benefit ("workfare") programs indicates that most researchers have failed to turn up clear evidence that these programs can enhance client employability or earning power, or reduce AFDC and food stamp expenditures.

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ROSTRUM

Short letters from subscribers are encouraged.

The race factor

Within recent weeks there has been considerable discussion about California's 1982 gubernatorial election. This discussion focuses on two items: 1) the results of a study conducted by a University of California, Berkeley, political scientist, which concludes that race was "the major factor" in Los Angeles Mayor Tom Bradley's loss to George Deukmejian; and 2) a post-election survey and analysis conducted by the California Poll, which attributes Bradley's defeat to the "success of Republicans in getting party members to vote absentee, presence of Proposition 15 on (the) ballot, low turnout of minority groups, as well as white racism."

As one who has followed state government from close range for many years, and who happens to be a black Californian, I feel obliged to offer a few observations that seem to be overlooked.

If one asks the question, "Was race a factor in the recent gubernatorial election?" my intuitive answer is "yes." Although I wish it were otherwise, I do not foresee a time when race will not be a consideration, one way or the other, when black and white candidates are pitted against each other in a campaign for the highest office in the state.

But asking the question, "Was race a factor?" is far too simplistic, especially regarding the recent election. Isn't it far more significant, in the historical context of American race relations, that a black man came within less than 100,000 votes of being governor of the largest state in the nation, and a predominantly white state, at that? Isn't it significant that in six out of seven contests for statewide office, a woman or racial minority member was a candidate? Doesn't it matter that four blacks were on the statewide ballot for higher office? And what about the Republican Party selecting two blacks and a woman to carry its banner in the general election? I don't consider that "tokenism."

If political parties are a mirror of the overall population, and I believe they are, how can it be said that "white racism" defeated Tom Bradley, in the face of the parties' actions in selecting their candidates?

I am also disappointed that the analysts not only ignored the conduct of California's political parties, but they also disregarded the actions of the people who supply the "mother's milk" of politics: the political action committees, etc. The business community, trade associations and others who give nourishment to California's political system, gave financial support to Bradley to a greater extent than their support to Deukmejian. This situation occurred not because they necessarily preferred Bradley over Deukmejian, but probably because they thought Bradley had the election in the bag, and they wanted to back the probable winner. Whatever their motives, race was certainly not a factor among the folks who supplied financial support.

It seems clear to me that any conclusion that "white racism" was responsible for Bradley's defeat, in the context of the factors which I have described, is misleading, unfairly portrays the voters of California and taints the entire political process.

In my view, if all other factors were the same, except that Bradley was not black, he would have been defeated by an even greater margin. His primary campaign would have been tougher, and some of the political meanness that is characteristic of politics, which Bradley was able to escape (frankly because many of his opponents and detractors were fearful of being characterized as anti-black) would have confronted him. In short, being black provided Bradley with a protective political shield against certain features of the political process.

The fight to make factors such as race, color, sex, national origin and other characteristics that bear no relationship to one's fitness to hold public office irrelevant must continue. But we must also assess our progress as we chart the course that lies ahead.

The battle must be waged, however, not only among white voters, but among blacks as well. Racial and ethnic pride have their virtues, but the time must come when blacks should also examine candidates — to paraphrase Martin Luther King — by the content of their proposals, not the color of their skin. When Deukmejian (or any other white candidate) can receive a proportionate share of the black vote in a contest between a black and a white candidate, based on their positions on the issues, then race will not be a factor in elections.

For my part, I am as concerned about the fact that only 5 percent of the black voters cast their votes for Deukmejian, as I am about the fact that only 43 percent of the white voters supported Bradley.

WARD CONNERLY
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Sacramento

'Gold among the kitty litter'

Senator Roberti's innovative ploy for furthering his political ambitions through his ROAR PAC ("Roberti and the animal lovers," *CJ*, March 1983) requires a response . . . The bill which convinced Senator Roberti that there was gold among the kitty litter started out as intended protection for lost family pets and strays that end up in pounds and are sold by some of them as medical research subjects . . . To publicize its existence, Roberti's office drew up the text for a petition to be circulated by supporters of the bill . . . Thus, brigades of animal lovers fanned out across the state to supply the good Senator with said proofs of their support, which added up to a quarter-million signatures.

Of them, 180,000 carried the imprimatur of SPARE (Save Pound Animals from Research Experiments) — the originators of the request for SB 1438. However, its leadership was excluded from the planning sessions and testimony on behalf of the bill . . . Consequently, whether due to bad advice or faulty perceptions, Senator Roberti's inner circle prepared two amendments to SB 1438 which would have made pound seizure state law, instead of prohibiting it . . .

It was with considerable relief when we finally saw SB 1438 go down the tubes . . . However, no sooner was that betrayal of California's pound animals averted, when we received Senator Roberti's solicitations to put our bucks into his ROAR PAC . . . an exercise for which he had the gall to use our petition signatures and addresses.

A protest has been filed with the Fair Political Practices Commission over this misuse of petition signatures . . . Further, we are concerned with the IRS and state

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'Hot walker' Ken Maddy — ready to pace the '86 Senate field

By HERB MICHELSON

Ken Maddy is sitting pretty. Check around. Over the past five years he has been up and down, in and out, winner and loser, divorced and remarried, job seeker, job finder, lately a sort of governmental personnel agency. Now it all has leveled out for him: a secure seat in the state Senate, a secure leadership role within the Republican caucus there, a plethora of pals in the governor's office (including George Deukmejian himself), a sense of confidence as a person and a politician and, finally, a direction — a targeted timetable for elevated office.

Maddy is -- to avoid the dramaturgy of suspense — currently looking at the U.S. Senate seat which will be up for grabs in 1986. This is Alan Cranston's seat — the one tax crusader Paul Gann couldn't grab in '80. The Republicans who lust after a pew in the U.S. Senate are conveniently, as Maddy points out, either "up or out" at this juncture. Pete Wilson won his own seat last year. Ex-Congressman Barry Goldwater and ex-Lieutenant Governor Mike Curb and plenty of others lost in the '82 GOP primary. This is not to say several of those losers might not be back, but Maddy believes that "when the '86 field comes, it'll be a new group.' And that he is at least as well-positioned as any in that group.

Ken Maddy can thus mark time; his state Senate seat is secure through '86 and his friend the governor will still be governor through '86. Also, there is a pleasant, albeit remote "What If" on the horizon. That game goes like this: What if Alan Cranston ends up on the Democratic ticket in 1984 and that ticket wins? Or, what if Cranston doesn't end up on the Democratic ticket in '84 but the Democratic ticket still wins and Cranston becomes secretary of state in a Mondale or Glenn or Hart or Whoknows-who administration? Should either of those What Ifs become palpable, there will be a vacant U.S. Senate seat from California, a vacancy to which the governor of California can make an appointment. It would be a mistake to bet against Deukmejian's appointing Ken Maddy.

* * * * * * * *

The year is 1960. Ken Maddy is 25 years old, married with two small children, fresh out of the Air Force, with a bachelor's degree in agriculture from Fresno State and wondering what he wanted to be when he grew up, what he could be, what the job situation might be. "We were sitting on the floor of the apartment we were about to move out of, in Oxnard, and talking about what I might be doing next," Maddy recalls. "I could have re-enlisted in the Air Force, I guess. But what I really wanted to do was go back to the racetracks. More than anything, that's what I wanted to do."

His father had been a horse-player, your basic two-dollar bettor. He would take young Ken and another son to Santa Anita regularly. On late afternoons, after his dad's day in the contracting business was over, Ken remembers rushing to the track to cover the final couple of races. "We'd stand in line at the $1 general admission window and then run for our seats." Later, after college and before the Air Force, Maddy was a "hot walker" and groom at Bay Meadows in San Mateo — a hundred dollars a month per horse and a $5-a-day motel room near the track. The good times.

So in 1960 he was ready to go back to that life — or at least thinking about it there that day in that stark Oxnard apartment. "But we just couldn't do the itinerant life again then," he says. "With children, it just wouldn't work. I remember sitting on the floor in the apartment and crying. Just then I got a phone call from an old friend who offered me an $800-a-month job to work on the 1960 census." Ken Maddy thus clocked people, not thoroughbreds. But in his own way, he was off and running, and running, and running.

* * * * * * * *

The time is February of 1977. Six men are talking at a table at the Velvet Turtle restaurant on a fringe of Fresno. One of the six is Doug Watts, who had fed himself doing legislative analysis for agribusiness lobbying groups. Four of the six are Fresno farmers who know where they can lay their paws on a big buck or two. The sixth man is Ken Maddy, now a lawyer (UCLA, Class of 1963) and a state assemblyman from Fresno. His name recognition may — *may* — have spread as far in those days as Visalia. Watts was on the brink of trying to make a governor — or at least a gubernatorial candidate — fueled by the finances of the friendly farmers.

That Velvet Turtle tête-a-tête was an eye-opener for Maddy. There were big agribusiness bucks out there. Agribusiness had spent $2 million in 1976 to beat back a farm-labor initiative, Proposition 14, pushed by Cesar Chavez and Jerry Brown. Now the farmers were looking for a way — a candidate — to beat Brown himself in '78. Assembly-

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man Maddy had already flirted with a run at the lieutenant governorship. He wanted out of the Assembly, wanted more. But not that job. Then he considered the attorney generalship. The incumbent, Evelle Younger, would be running for governor. "But I probably couldn't have raised enough money to make the AG's race," Maddy says. And so a fellow named Deukmejian covered that bet.

Instead Maddy went for the biggie, the governorship, in a primary field crowded by Younger, Ed Davis, Pete Wilson. And by a ballot issue with the name of Proposition 13.

A few days after that June '78 primary, in which Maddy ran third behind Younger and Davis, the McClatchy Newspapers political editor, Martin Smith, assessed: "Ken Maddy's campaign provides the best example of the crippling effect a distracted electorate has on a lesser-known challenger. Maddy did the right things — he raised a lot of money, developed a sound campaign plan, hired perhaps the best television campaign consultant in the business (John Deardourff), worked very hard and got good press attention (including a cover from *New West*)."

But that was not good enough, not nearly good enough. Maddy had opposed Proposition 13. Cautiously but publicly. "Once Ken came out against 13," says a veteran Maddy watcher from Fresno, "the money stopped coming in, and Ken couldn't do the things he wanted to do in the late stages of the campaign." Thirteen was the ballgame. Maddy sensed that but still bet the other way.

He can still get wistful about the '78 campaign. "Jerry Brown would have had a tough race against me," Maddy says. "I don't know if anybody could have beaten Jerry that year, but the primary race did prove to me that I was a good statewide candidate."

To a point. He was not good enough to win.

* * * * * * * *

Maddy was out of a job at the beginning of 1979. There were offers from prestigious law firms, "but most of them were made on the basis that I drop out of politics. And I just wasn't ready to quit." He instead joined a Fresno firm with Sacramento ties and within several weeks was again running for office, for a state Senate seat left vacant by the judicial appointment of George Zenovich. Maddy would be opposing Democratic Assemblyman John Thurman in a district with a better than 2-to-1 Democratic registration edge. Maddy would run the most expensive legislative campaign in the history of California to that date.

Between them, Maddy and Thurman spent $984,993. Maddy won by 783 votes. He was, barely, back in business. He was also physically exhausted and about to be divorced. Otherwise it might have been Maddy instead of tax crusader Paul Gann who did combat with U.S. Senator Alan Cranston in 1980. "I was just too wiped out," Maddy says. "And I wouldn't have been able to get enough money to run a respectable race."

* * * * * * * *

His name naturally came up in 1982 because he had proved in '78 that he could handle a statewide campaign. "Most of my backers," he says, "thought I could beat Pete Wilson in the primary for the U.S. Senate seat. But I didn't think I could beat Goldwater. The field was too crowded. Then there was talk of going for attorney general. But I felt that if I was going to go statewide, I might as well go for one of the top spots. Anyway, the situation in the state Senate looked good."

Maddy had an uncontested race for re-election. There was an outside chance the GOP might win control of the Senate. "The combination of reapportionment, the recession and Democratic money and registration" prevented that, Maddy says. "As it was, we lost a couple of Senate races we shouldn't have."

For Maddy, though, the results were positive. He remained, on paper, the Number Two Republican in the Senate (sidekick to Minority Floor Leader Bill Campbell). And now he has friends in high Sacramento places.

* * * * * * * *

Doug Watts, the adviser from the Velvet Turtle gabfest, is, seven years later, a significant adviser in the governor's office, along with his former consulting partner, Sal Russo. Russo and Watts had both worked hard for Maddy in 1978. One term later they had worked hard for George Deukmejian. (If you want a governor you can call your own, you simply have to be patient.)

"I've seen a lot of changes in Ken Maddy," Watts says. "You'd have to know Ken well to discern them. He's become less cocky, more confident. More serious about politics and more of a long-range planner. I think he's been looking at '86 since late 1980. He saw Pete Wilson and George Deukmejian move ahead in the past year, and now he understands the need to concentrate on moving ahead himself, his own future. He's honing his skills. For a long time at the Capitol, Ken was heralded as one of the four or five most respected and effective legislators — now it's even greater. Number one or two top legislator."

"I think," says Maddy, "I'm in the best position I've ever been in during my 13 years in the Legislature. I feel I can do anything I want to do. It's clear to everyone that I was nearly the first on board the Deukmejian campaign, and so I have some influence.

"I was on a TV show in Los Angeles in November of 1980 and I said that George would be the strongest candidate the Republicans could run for governor in 1982. He called and thanked me. I told him I would support him. I told him I wasn't going for the governorship in '82 myself."

* * * * * * * *

Maddy has thrown himself into the areas of campaign and Medi-Cal reform. He was a central figure in this winter's budget struggle. He laughs when someone suggests he might now have a "playboy" image — a notion possibly encouraged by the fact he recently married money: the widow of the president of Modesto's Foster Farms chicken empire. For future campaign purposes, Maddy does believe, however, that "money will draw money." He thinks, too, that the 1986 race for the U.S. Senate will draw Curb and ex-Congressman John Rousselot — and perhaps even good buddy Bill Campbell as competitors.

"We could be on the same path," Maddy says, "but for now Bill and I have the same agenda. I can't base my conduct in the Senate now on '86. The more you look statewide too early, the more credibility you lose. The more you try to predict ahead of time what the issues will be in an election, the more foolish you look. There are so many things that can come into play in planning far ahead that you can't do everything in relationship to that future date. But I know that the U.S. Senate race in 1986 will be the time and place for me to make a move."

For now, sitting pretty is sufficient.

1982 INDEX

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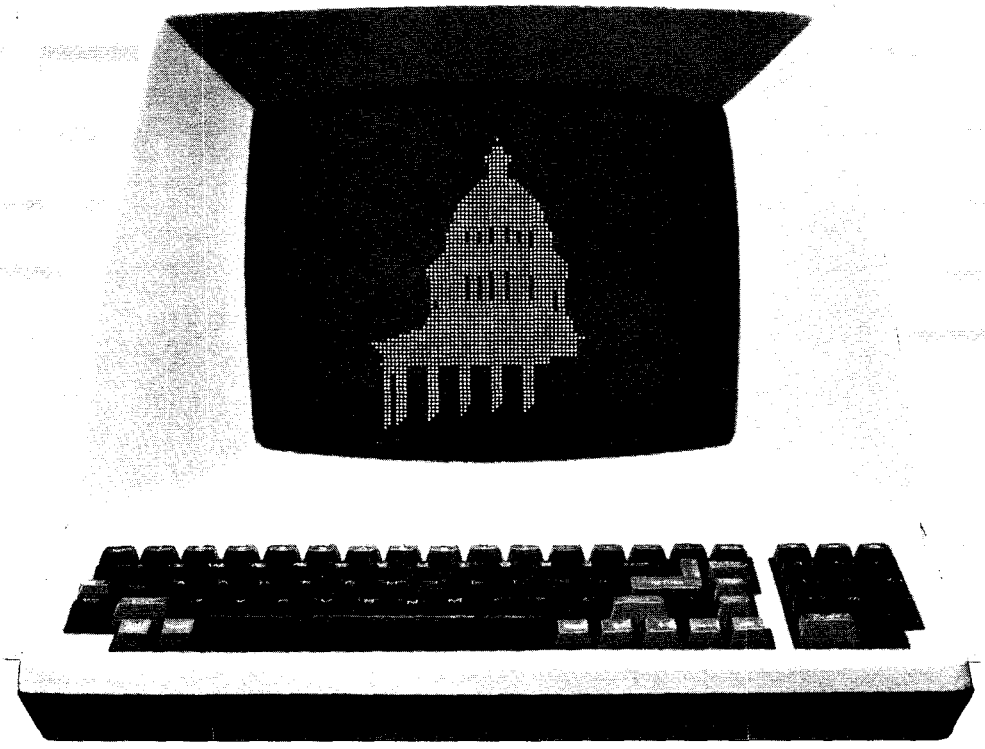

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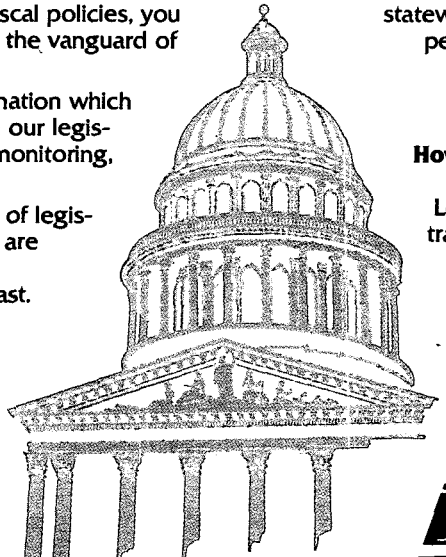

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Taking the Bar to court: issues of dues, dissent and lobbying

By KATHERINE BISHOP

Last October, following the lead of its new president, Anthony Murray, the State Bar of California mounted an aggressive public information project designed to "rise in defense of our courts." The project, titled "The Case for an Independent Judiciary," consisted of a massive packet which included a sample speech, press release, instructions on how to hold and publicize public forums and other materials to "assist the public in understanding the difficult responsibility of the courts."

For four attorneys already disgruntled with the State Bar's wide-ranging lobbying activities, the project — which came at a time when four Supreme Court justices faced a retention election — was the final straw. They were especially rankled by Murray's statement that "the only legitimate basis for refusing to retain or for recalling a justice is a showing of incapacity or misconduct in office." Nor were they pleased with his characterization of court critics as "self-appointed vigilantes" and "bullies of our land" who seek to manipulate legitimate procedures such as retention elections "as a sword against the court."

The four filed suit, asking that the Bar's controlling body, the Board of Governors, be restrained from spending Bar membership dues "for political and ideological purposes in violation of petitioners' and plaintiffs' constitutional rights to freedom of speech and association."

While Bar President Murray has characterized the suit, known as *Keller v. State Bar*, as "nonsense," he has also acknowledged that "it could well produce an historic decision of nationwide significance."

The basis of the plaintiffs' complaint is that Bar membership, and thus Bar dues, are mandatory. Article VI, Section 9 of the California Constitution requires all persons licensed to practice law in the state to be members of the State Bar. And, under state law, all members must pay dues to the Bar or be suspended from practice.

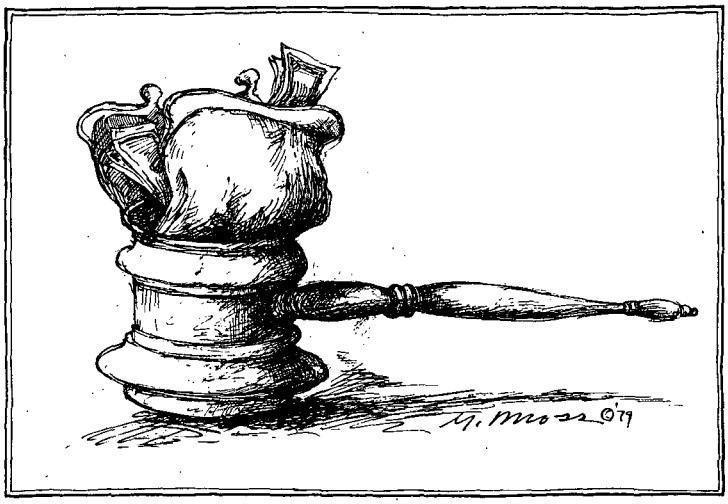
The plaintiffs argue that because their association with the Bar is forced, they should not be required to lend their financial support to any political or ideological cause, especially those "which they find morally objectionable and repugnant to their privately held beliefs."

In October the plaintiffs won a temporary restraining order preventing any share of their Bar dues from being used to finance any project on judicial retention. The order was subsequently lifted when an amount equal to the plaintiffs' pro rata share of dues was placed in a trust account pending outcome of the case.

Beyond the catalyst

The plaintiffs, their ranks now swollen to 21, are represented by Ronald A. Zumbrun, John H. Findley and Anthony T. Caso, all of the Pacific Legal Foundation. The conservative, public-interest law firm is based in Sacramento and is involved in a wide range of legal action including "reverse discrimination" suits and disputes between private property owners and the Coastal Commission.

Anthony Caso confirms that the Bar's project served as the "catalyst" for the filing of the suit. However, the suit attempts to prevent the Bar from engaging in a broad range of activities that have been part of its functioning for many years. These include:



- Lobbying. While the plaintiffs do not specify particular lobbying activities as objectionable, they include a list of bills on which the Bar took positions last year. These include issues such as comparable worth in setting salaries for female-dominated jobs, which agency should have responsibility for air pollution regulation, automatic increases in child support payments and computation of "lifeline" public utility rates.
- Submitting *amicus curiae* (friend of the court) briefs. Among others, the State Bar submitted an *amicus* brief in *Brosnahan v. Brown* challenging the constitutionality of Proposition 8, the so-called Victims' Bill of Rights.
- Financing meetings of the Conference of Delegates. Last year, the Conference adopted resolutions endorsing Proposition 15, the gun control initiative, and the nuclear weapons freeze initiative.
- Publicizing the "political and ideological speeches" of Bar President Murray.
- Financing public information projects regarding judicial retention elections.

On March 4th, Judge Fred W. Marler Jr. of the Sacramento Superior Court dealt the plaintiffs an initial setback by denying their request that the Bar be ordered to stop using members' dues for these activities, pending a trial on the issues. No date has been set for the trial.

In financial terms, the sum at stake is the $5-$8 total cost per member for the challenged programs. Multiplied by about 75,000 Bar members, it represents a formidable sum.

The State Bar of California was created in 1927 by the Legislature in the State Bar Act. It was given constitutional duties in 1960, making the Bar a constitutional agency

Katherine Bishop, a free-lance writer in San Francisco, wrote "'Adults only,' one year later" in the March 1983 Journal.

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in the judicial branch of government. The Board of Governors is empowered under state law to "aid in all matters pertaining to the advancement of the science of jurisprudence or to the improvement of the administration of justice."

Robert S. Thompson, a retired California Court of Appeal judge now practicing with the Los Angeles firm of Hufstedler, Miller, Carlson and Beardsley, represents the State Bar in the suit. His papers filed in opposition to the injunction argue that the legislative authorization for Bar activities "is both clear and broad." The plaintiffs "cannot show that any of the challenged activities of the State Bar are outside of the scope of its authorization."

Caso disagrees. Terms like "administration of justice" are vague, he says. And whether or not that language justifies the Bar's lobbying activities "is certainly open to dispute." And even if it were clear, the plaintiffs are not arguing statutory authority in their suit, Caso points out. "We're arguing constitutional rights."

The Bar also claims that it "was created to serve governmental purposes and was accordingly vested with governmental powers." Its expenditures are proper as long as they are within the Bar's jurisdiction.

The contrary view

The defendants liken the plaintiffs to taxpayers unhappy with how the government is spending their money. "If a taxpayer can restrain a government entity from lobbying for legislation to which the taxpayer is opposed, the power of a government entity to lobby is a power which can never be exercised, for in practice some taxpayer will surely hold a contrary view. If the taxpayer does not agree with the decision of his elected representatives in this area, as in others, his recourse is to vote against them."

The State Bar of California, they argue, incorporates "an internal model of representative democracy operating within limitations imposed by a democratically elected state Legislature." The Bar also asserts that the challenged activities "are long-standing practices" which have existed throughout its history.

But Caso counters, "That argument doesn't fly at all. They're just saying they violated constitutional rights for a long time."

California is not the only place where this issue is being raised. Washington, D.C. lawyers restricted the lobbying and *amicus* activity of their Bar via a referendum in 1976. Last year, the New Mexico Bar was enjoined from spending members' dues on lobbying activities. In the New Mexico case, *Arrow v. Dow*, the United States District Court defined the issue as follows: Is society's interest in the legislature being informed of the opinion of the majority of Bar members on issues of administration of justice of sufficient governmental interest to justify an infringement on the plaintiffs' rights by using Bar dues to finance lobbying? That court held that the New Mexico Bar's lobbying program did not meet the test of important or compelling governmental interest.

Because the lobbying effort was the only challenged activity in the New Mexico suit, the issues in California go beyond it. And in the New Mexico case, the court said that the Bar was free to lobby with funds other than those required for membership.

The California Bar argues that *Arrow v. Dow* was both factually different from the California case and wrongly decided. It also asserts that the case is not applicable to the California situation because the two Bars are different in their creation and scope of public duty.

Some critics of the California suit argue that the proper forum for airing the dispute is the Legislature — either for a change in statute to clarify the Bar's role or a constitutional amendment, or both.

But Caso says, "If the agency is arguably within its statutory authority and they're violating constitutional rights, there's no need to stop off at the Legislature first."

An *amicus* brief filed in the case on behalf of the Bar Association of San Francisco and the San Francisco Lawyers Club suggests a possible compromise — adjusting the plaintiffs' dues on a pro-rated basis rather than outlawing Bar activities. They argue that if the plaintiffs' money is not being used, they have no complaint.

CONTEST! $500 FIRST PRIZE!

Best Student Articles on California Government and Politics

California Journal will award $500 for the best paper from a college student on California government and politics written during the current academic year.

The first-prize winner will receive $500 and the article (subject to normal editing) will be considered for publication in *California Journal*. One or more runners-up will be recognized in the *Journal* and will receive a one-year subscription to the magazine. The *Journal* may publish these articles as well, and would pay $150 for each article published.

Contest rules: Articles must concern current California issues and provide factual information and analysis consistent with the *California Journal's* non-partisan editorial policy. Papers will be judged on originality, contribution to public understanding of government, quality of research, writing style, etc.

Submissions must be typewritten, double-spaced and may not exceed 2,000 words. Please enclose a stamped, self-addressed envelope if you want the article returned. The prize-winning articles become the property of *California Journal*.

It is expected that most papers will have been prepared for college classes, although this is not a requirement. However, submissions must be accompanied by a brief note from a college instructor indicating that a) the paper was, to the best of his or her knowledge, prepared between July 1st, 1982, and June 30th, 1983; b) the author was a registered college student at the time; and c) the instructor recommends it for consideration in this competition.

Papers will be judged by a panel composed of persons from the fields of political science, journalism, public office and others.

Deadline: Papers must be submitted by July 15th, 1983. The winners will be announced by September 15th, 1983.

Send entries to Article Competition, *California Journal*, 1714 Capitol Avenue, Sacramento, CA 95814.

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Setting the double trigger

The Legislature's biggest business so far this session has been passage of the compromise bill (AB 28X) to fix the estimated $1.5 billion budget deficit in the current fiscal year without necessarily raising taxes. The measure follows Governor George Deukmejian's request that part of the deficit be reduced in the current year and that the remainder be repaid in fiscal 1983-84, which begins July 1st. In all, with spending reductions, tax accelerations and revenue transfers, the bill reduces current-year expenses by $638 million.

The compromise with Senate Democrats involved insertion of two provisions that could trigger a 1-cent increase in the sales tax. The increase would occur, first, if state revenues run more than $150 million below estimates during the first part of the coming fiscal year (July 1st through October 10th). However, that is not expected to occur.

The second provision would boost the sales tax in early 1984 if on January 10th the governor finds that the state is likely to end the 1983-84 year with less than $100 million in reserve. Since the size of the reserve depends not only on the state's income but on the amount of spending that Deukmejian and the Legislature approve during the rest of this year, there is a chance that this increase will occur.

If the sales tax should rise, from the current 6 percent to 7 percent, the increase would remain in effect only long enough to repay the remainder of this year's deficit. However, to honor the governor's pledge that there be no "net tax increase," the sales tax would drop to 5 percent on February 1st, 1985, and stay there until taxpayers had received the same amount in tax savings that they had previously lost to the increase. However, if the governor declares, in effect, on January 15th, 1985, that the state cannot afford the full 1-cent reduction, then the tax would drop only one-half cent. But the rate would also stay there until the taxpayers' previous increase was repaid. A penny on the sales tax raises about $150 million a month.

VOTING RECORDS

Listed here are the votes of legislators on major roll calls through mid-March. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y — Yes **N — No**
• — Absent or not voting

A 2/3 vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

SENATE (25D, 14R-1I)*	AB 28X	SB 89	SB 34		AB 28X	SB 89	SB 34
Alquist (D)	Y	Y	•	Maddy (R)	Y	Y	Y
Ayala (D)	Y	Y	Y	Marks (R)	Y	N	•
Beverly (R)	Y	Y	Y	McCorquodale (D)	Y	Y	Y
Boatwright (D)	Y	•	Y	Mello (D)	N	Y	•
Campbell (R)	Y	Y	Y	Montoya (D)	Y	Y	Y
Carpenter (D)	Y	Y	Y	Nielsen (R)	Y	Y	Y
Craven (R)	Y	Y	•	Petris (D)	Y	•	N
Davis (R)	•	Y	Y	Presley (D)	Y	Y	Y
Deddeh (D)	Y	Y	•	Richardson (R)	N	Y	•
Dills (D)	Y	•	Y	Robbins (D)	Y	Y	•
Doolittle (R)	N	Y	Y	Roberti (D)	Y	Y	N
Ellis (R)	Y	Y	Y	Rosenthal (D)	Y	N	N
Foran (D)	Y	Y	Y	Royce (R)	N	Y	Y
Garamendi (D)	Y	Y	Y	Russell (R)	Y	Y	Y
Greene, B. (D)	Y	•	•	Seymour (R)	Y	Y	Y
Greene, L. (D)	Y	Y	•	Speraw (R)	N	Y	•
Hart (D)	Y	N	N	Stiern (D)	Y	Y	Y
Johnson (I)	Y	•	Y	Torres (D)	Y	Y	•
Keene (D)	Y	Y	N	Vuich (D)	Y	Y	Y
Lockyer (D)	N	N	•	Watson (D)	Y	Y	N

*Senator Ray Johnson in March changed his party registration from Republican to "declines to state."

SENATE

AB 28X (Robinson). Implements many of the administration's Phase I budget options for reducing the 1982-83 state budget deficit. Passed 33-6 on February 16th.

SB 89 (Ayala). Prohibits the state from imposing any limitations on the filling of New Melones Dam and Reservoir on the Stanislaus River. Passed 31-4 on March 3rd.

SB 34 (Presley). Makes it a crime to make a false complaint against a police officer, alleging assault, battery, or excessive use of force. Passed 22-6 on February 18th.

ASSEMBLY

AJR 1 (Bane). Asks Congress to submit another Equal Rights Amendment to the states for ratification. Passed 55-12 on March 7th.

AJR 15 (Hayden). Asks President to dismiss the administrator of the federal Environmental Protection Agency and to implement policies for effectively cleaning up hazardous waste. Passed 42-29 on February 24th.

AB 28X (Robinson). Implements many of the administration's Phase I budget options for reducing the 1982-83 state budget deficit. Assembly gave final approval, 60-17 on February 16th.

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ASSEMBLY (48D, 32R)	AB 28X AJR 1 AJR 15		AB 28X AJR 1 AJR 15		AB 28X AJR 1 AJR 15		AB 28X AJR 1 AJR 15
Agnos (D)	NYY	Costa (D)	Y*Y	Jones (R)	YYN	O'Connell (D)	NYY
Alatorre (D)	Y*Y	Davis (D)	YYY	Katz (D)	YYY	Papan (D)	NYY
Allen (R)	YNN	Elder (D)	YY*	Kelley (R)	YYN	Peace (D)	YYY
Areias (D)	YYY	Farr (D)	YYY	Killea (D)	YYY	Robinson (D)	Y**
Bader (R)	YYN	Felando (R)	YYN	Klehs (D)	YYY	Rogers (R)	N*N
Baker (R)	NNN	Filante (R)	YYN	Konnyu (R)	Y*Y	Roos (D)	YYY
Bane (D)	YYY	Floyd (D)	*YY	LaFollette (R)	YYN	Seastrand (R)	YNN
Bates (D)	NYY	Frazee (R)	YNN	Lancaster (R)	YN*	Sebastiani (R)	N*N
Bergeson (R)	Y*N	Frizzelle (R)	Y*N	Leonard (R)	YYN	Sher (D)	YYY
Bradley (R)	YNN	Goggin (D)	*Y*	Lewis (R)	NNN	Statham (R)	YYN
Bronzan (D)	YYY	Hannigan (D)	YYY	Margolin (D)	YYY	Stirling (R)	YYN
Brown, D. (R)	NNN	Harris (D)	NYY	McAlister (D)	YN*	Tanner (D)	YYY
Brown, W. (D)	YYY	Hauser (D)	NYY	McClintock (R)	YYN	Tucker (D)	YYY
Calderon (D)	YYY	Hayden (D)	NYY	Mojonnier (R)	YYN	Vasconcellos (D)	YYY
Campbell (D)	*YY	Herger (R)	N*N	Molina (D)	YYY	Vicencia (D)	YYY
Chacon (D)	YYY	Hill (R)	N*N	Moore (D)	YYY	Waters, M. (D)	Y*Y
Clute (D)	YYY	Hughes (D)	YYY	Moorhead (D)	YYY	Waters, N. (D)	YY*
Condit (D)	YYY	Isenberg (D)	YY*	Mountjoy (R)	NNN	Wright (R)	Y*N
Connelly (D)	YYY	Johnson (R)	N**	Naylor (R)	YYN	Wyman (R)	YNN
Cortese (D)	YYY	Johnston (D)	YYY	Nolan (R)	NNN	Young (D)	YY*

ROSTRUM *Continued from page 162*

tax law implications raised by the participation of humane organization heads in political action committees, when the IRS and state tax codes are entirely explicit about prohibitions on political activities for humane organizations . . .

As for Senator Roberti: He has certainly been a "good" vote on many animal issues, which are not forgotten or totally negated by his ill-advised performance on the pound seizure bill. But given its perversion through last session's amendments, and advance intelligence that the same types of amendments would be accepted on this session's repeat attempt to pass the bill, we must remind the good Senator that you don't become King of the Jungle by standing on the corpses of its creatures.

RUTH WEDDLE
President, California Coalition
of Animal Owners, Inc.

(Editor's note: Senator Roberti says his amendments would have allowed local governments to decide the pound seizure issue.)

'Manipulators'

Can anyone still have confidence in the strength, stability and collective wisdom of representative legislature after reading "ROAR" (*CJ*, March 1983)? With opportunistic manipulators like Burton and Roberti to weaken our democratic institutions, why are we afraid of Andropov and his bombs?

SANFORD KILLIP,
San Francisco

Fazio and the pay hike

As was expected, the *California Journal* finally printed an article ("Pushing a pay hike," *CJ*, February 1983) in defense of Vic Fazio and the others in Washington, D.C., who again — after bemoaning the needy, poor, aged, ill and the under-funded educational system during an election year — turned right around and voted themselves a salary increase equal to or higher than the average income of most American families . . . Strange that the article somehow seems to gloss over the fact that the members of Congress, by their own vote, do not have to pay into the Social Security system, so they have missed out on a tax that most every working woman and man suffers under . . .

Certainly congressional members deserve to be paid fairly. Perhaps they should be entitled to a system where cost-of-living allowances are built in, and perhaps restrictions on outside income should be reviewed. But there is one thing much more compelling: The American taxpayer, the American family . . . need and deserve attention first.

REX S. HIME

(Rex Hime, a Sacramento private consultant, ran for Congress against, and lost to, then-Assemblyman Fazio in 1978. He says he has no plans to run again.)

'Missed the point'

The assessment of the problems of congested courts in Los Angeles in an article by Richard Thomson (*CJ*, February 1983) missed the point. The creation of additional judgeships will not solve the problem; it will simply delay the need to face it.

In the past, there has been insufficient agreement among the Bench, the Bar, and the Legislature about which court procedural reforms to pursue. Now, with excessive civil case backlogs, perhaps the time is ripe for some compromise and the development of some consensus proposals. If responsible officials and leaders of the Bench and Bar do not act to solve this problem now, the issue will be pre-empted by an initiative, and the result may be simplistic policies which are ill-equipped to solve the complex problems facing our courts. Perhaps that explains the county's position that we will fund no new additional judgeships until there is substantial progress toward systemic procedural reforms, such as judicial *voir dire*.

EDMUND D. EDELMAN
Supervisor, Third District
Los Angeles County

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A plea-bargain ban that didn't work

By RICHARD THOMSON

Plea bargaining is a system whereby the prosecutor, the defense attorney and the judge agree before trial on the charges to which the defendant will plead guilty and on the sentence which he will receive. It is the most common way in which we resolve criminal complaints. In 1981, for example, there were in California's Superior Courts more than 45,000 guilty pleas before trial and only 6,500 actual trials.

Sometimes, however, this system breaks down. Plea bargaining may be efficient, but it is not politically popular. (Proposition 8, which voters approved last June, restricts plea bargaining, but not in all cases.) In any bargain both sides get something. In a plea bargain, society obtains the savings in money and court time of not having a full-blown trial, but the defendant often obtains a lighter sentence.

Richard Thomson is chief counsel to the Senate Judiciary Committee.

Some district attorneys and judges run for election on a no-plea-bargaining platform.

Two years ago the Ventura County Municipal Court saw the conjunction of a master calendar judge and a district attorney who both refused to engage in plea bargaining. Defendants found that the usual bargains were not being offered, and they began to stop pleading guilty. The number of misdemeanor cases awaiting jury trials rapidly increased, and so did the time each defendant had to wait before he could have his day in court. The public defender, sensing opportunity, told all of his clients to request a jury trial.

Section 1382 of the California Penal Code says that a defendant not in custody is entitled to have a misdemeanor charge dismissed if the case is not tried within 45 days, unless good cause for the delay is shown. During the no-plea period in Ventura County, 38 defendants requested a jury trial within the 45 days, but were denied because of the backlog. The 38 then moved that the charges against them be dismissed. The district attorney opposed those dismissals, arguing that there had been good cause for the delay.

The matter was finally resolved by the Second District Court of Appeal on January 13th, 1983. A unanimous court, in an opinion by Judge Joan Dempsey Klein, ordered that the cases be dismissed. Justice Klein's first point was that the overcrowded condition of the courts is not good cause for delay. Were that not true, a defendant's right to a speedy trial could be denied simply by the state's failure to provide enough courtrooms or judges.

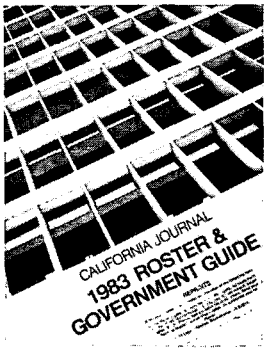
Ah, said the district attorney, but here there were exceptional circumstances: The judge and I would not engage in plea bargaining, and the public defender took unfair advantage of the situation by advising his clients to request jury trials. It was those extra requests that made it impossible to try the cases before the statutory deadline.

Justice Klein said no. Every defendant has a constitutional right to a jury trial, and it is up to the state to provide enough facilities to handle those trials. In fact, there were sufficient facilities for the usual number of cases. The problem stemmed from the "policy changes" of the judge, the district attorney, and the public defender which altered the "precarious balance" of the plea bargaining system.

"We do not mean to imply that any of the parties acted improperly in performing in accordance with perceived propriety," Justice Klein added tactfully. "The district attorney was duly elected on a no-plea-bargaining platform. [The judge], also an elected official, was proud to be known as a tough judge. The public defender had occupied his same appointed position for some 14 years . . . Each acted in good faith within the bounds of his respective authority . . ."

However, said the justice with a little less tact, the harm resulting from "the posturing and positioning of the principals involved" should not be imposed upon "the forgotten defendants who did nothing more than exercise a constitutional right."

These cases arose during the first part of 1981. Since then the backlog has subsided, the number of demands for jury trials has returned to normal, and defendants are being convicted rather than having their cases dismissed. The reason is simple: The plea bargaining system has been restored.



ROSTER UPDATE

The following updates and corrections should be added to the *California Journal Roster and Government Guide*, published in the February issue:

Page 3: The new director of the Department of Insurance is Bruce Bunner.
The new Department of Motor Vehicles director is George Meese.
The new director of Transportation is Leo Trombatore.
The new Developmental Services director is Gary Macomber.
The new director of the Department of Forestry is Gerald Partain.
The new director of the Department of Parks and Recreation is Carol Hallett.

Page 5: The new chairman of the Energy Commission is Charles Imbrecht.
The new chairman of the Fair Political Practices Commission is Daniel Stanford.

Page 7: Senator Ollie Speraw's new district office address is 2503 Eastbluff Dr. #203, Newport Beach 92660, (714) 760-8853.

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California's special shame

After 40 years, the official verdict is in. There was no justification, in law or military necessity, for removal and detention of 120,000 Japanese-Americans on the West Coast during the Second World War. It was a shameful act which created havoc with the lives of people singled out because of their parentage. While the order was given in Washington, California bears a special responsibility for this sad episode. For half a century before Pearl Harbor, the state served as the incubator of anti-Japanese agitation. Now, the nation must wrestle with the issue of suitable amends. Its institutions again are being summoned to demonstrate that, in another crisis, this couldn't happen again.

AFTER EXTENSIVE EXAMINATION of government files and lengthy interviews with victims and decision-makers, the Commission on Wartime Relocation and Internment of Civilians concludes that all constitutional failsafe devices were swept aside by panic and bigotry. Despite strong reservations by high officials in the Justice Department, including J. Edgar Hoover, the executive branch bowed to military pressures. President Roosevelt, who felt he had more important fish to fry, went along. Even after the military tide turned against Japan, Roosevelt made sure the internees wouldn't return to California until after he had won a third term in 1944. Congress went along. In a 7-2 decision, so did the U.S. Supreme Court, although Justice William Douglas later regretted having joined the majority. The press ignored its adversary role and led the clamor for detention — with Walter Lippman at the head of the parade. Only a few voices, in and out of government, protested — not enough to make an impact.

Yet, the commission, in a 467-page report to Congress, finds, "all this was done despite the fact that not a single documented act of espionage, sabotage or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the West Coast." Hysteria prevailed; but there also had to be individuals in key places to whip it up and use it to uproot an entire racial group. At the top of the list was General John L. DeWitt, who headed the Western Defense Command. Stung by the poor military showing of his colleagues at Pearl Harbor, he overreacted and created a climate of fear. To guarantee that there would be no sneak attack during his watch, he was willing to adopt extreme measures. DeWitt wasn't satisfied with keeping an eye on a few possible collaborators in the Japanese-American community — a tactic favored by Hoover's FBI. "The Japanese race is an enemy race," the general told his superiors in arguing that it was futile to sort out the loyal from the disloyal. Or, as he put it more succinctly, "a Jap is a Jap."

DeWitt's position was popular on the West Coast. Local and state officials backed him up. In his corner were California Governor Culbert Olson, Los Angeles Mayor Fletcher Bowron and the state's attorney general, Earl Warren, who had his eye on the governorship. In later years, after blazing new constitutional trails for minorities on the Supreme Court, Warren publicly recanted his wartime position and asked Congress to prevent future presidents from exercising such summary authority over any group of Americans. But in 1942, when he successfully ran for governor, Warren kept up the pressure for a tough anti-Japanese policy. The state's congressional delegation was solidly behind DeWitt.

Yet, why did it happen to Japanese-Americans and not to German-Americans or Italian-Americans? The commission suggests Americans of German and Italian stock had become more assimilated. In their case, there was a softening of ethnic stereotypes. Roosevelt thought of Italians as "a lot of opera singers." Also, there were too many of them. It would have hurt the wartime effort to put millions of German-Americans or Italian-Americans behind barbed wire. And besides, unlike the Issei and the Nisei, they had political clout. Still, the report points out, there was just as much, if not more Nazi fervor in the ranks of the American Bund or pro-Fascist leanings among members of the Italian community as there was fanatical worship of the Emperor among some Japanese in California.

Even more telling is the comparison with Hawaii, where military precautions presumably might have dictated even harsher measures against Japanese-Americans. Instead, out of 158,000, no more than 2,000 ended up in detention centers. A few collaboration suspects were arrested. But the Hawaii story was dramatically different. General Delos Emmons, who commanded American troops on the islands, was not a racist like DeWitt. He resisted pressures from Roosevelt to ship tens of thousands of Japanese-Americans to the mainland for detention. In fact, it wasn't until after Emmons took over the Western Defense Command from DeWitt that Washington finally was able to let detainees return to the West Coast. The commission also points out that Hawaii was more ethnically mixed and racially tolerant.

In contrast, California had been the scene of 50 years of virulent anti-Japanese agitation. The press thrived on the "yellow peril." The Native Sons of the Golden West, the American Legion, the State Federation of Labor and the Grange consistently supported restrictions on Japanese immigration and land ownership. Big business exploited cheap Japanese labor. The commission highlights some of this history but, if anything, understates it. The Japanese community in California also was vulnerable because of its very smallness. It constituted 2 percent of the state's population, compared with 35 percent in Hawaii.

THE COMMISSION REJECTS the argument that relocation was prudent in the face of vigilantism that could have led to more serious consequences for Japanese-Americans. Civil authorities, it maintains, are in business to stamp out lawlessness; they can't use it as an alibi. The report also dismissed the argument of former Senator S. I. Hayakawa that relocation camps helped to end the cultural isolation of Japanese-Americans and speeded their entry into the American mainstream. Without discrimination, the commission argues, they would have done just as well. "The evacuation cannot be characterized as a necessary spur to success," it declares.

There's still an unfinished chapter — the highly sensitive issue of reparations. Whatever Congress finally decides, the inner logic of the report suggests that a special contribution from California is in order.

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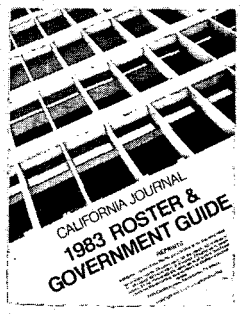

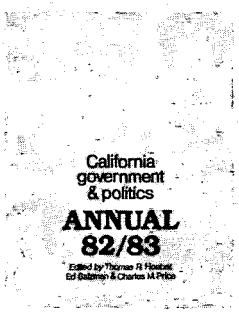

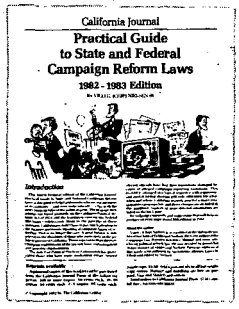

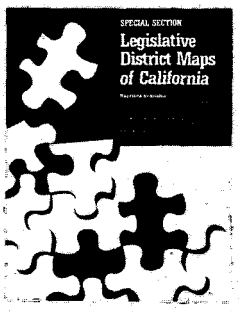

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— Cullen Hightower

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